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ABSTRACT

These curriculum materials are intended to supplement classroom resources for teaching high school students the roots of U.S. heritage and the responsibilities of American citizenship. The materials are divided into 14 sections: .(1) "Purpose"; (2) "Letter from Superintendent"; (3) "Forward: Miracle of America"; (4) "Preface: From Oppression to Freedom"; (5) "American Heritage Themes"; (6) "1622 Mayflower Compact--Responsibility" (HISD Character Education Focus October); (7) "1776 Declaration of Independence--Freedom" (HISD Character Education Focus November); (8) "1787 Federalist 47--Responsibility" (HISD Character Education December); (9) "1791 First Amendment--Unity" (HISD Character Education Focus February); (10) "1794 Entrepreneurs in History--Progress" (HISD Character Education Focus April; Cornelius Vanderbilt, Andrew Carnegie, James Hill, John D. Rockefeller); (11) "1916 American's Creed--Responsibility" (HISD Character Education Focus January); (12) "1976 U.S. Flag/Federal Flag Code--Freedom" (HISD Character Education Focus March); (13) "1998 Religious Expression in Public Schools--Unity" (HISD Character Education Focus May); and (14) "2000 What Is an American?--Responsibility" (HISD Character Education Focus May). (BT)

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Houston Independent School District
American Heritage Education Foundation, Inc.
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AMERICA'S HERITAGE

an adventure in liberty

LIBERTY ENLIGHTENING THE WORLD

High School Edition

First Edition

Developed and provided by
The Houston Independent School District
in cooperation with
The Robert and Janice McNair Foundation
and
The American Heritage
Education Foundation, Inc.

"If a nation expects

to be ignorant and free,

in a state of civilization,

it expects what never was

and never will be."

Thomas Jefferson

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America's Heritage: An Adventure in Liberty

Curriculum Materials for High School Teachers

Teachers are provided these resources as a supplement to school resources as they deliver instruction focused on developing an understanding and teaching of our nation's factual and philosophical heritage to promote Freedom, Unity, Progress, and Responsibility among our students and citizens.

Developed and provided by:

The Houston Independent School District

in cooperation with

The Robert and Janice McNair Foundation

and

The American Heritage Education Foundation, Inc.
3701 W. Alabama, Suite 200
Houston, TX 77027-5224

Phone: 713-627-2698
Fax: 713-572-3657
email: info@americanheritage.org
www.americanheritage.org

These materials will help teachers accomplish the requirements of
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Purpose

In 1995, the Texas Legislature directed the State Board of Education to implement the following law:

> The State Board of Education and each school district shall foster the continuation of the tradition of teaching United States and Texas History and the free enterprise system in regular subject matter and in the reading courses and in the adoption of textbooks. A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage.
>
> Texas Education Code §28.002(h)

The American Heritage Education Foundation, Inc. (AHEF) is a non-profit corporation dedicated to the understanding and teaching of our nation's factual and philosophical heritage to promote freedom, unity, progress, and responsibility among our students and citizens. AHEF has provided these materials to help students become thoughtful, active, and productive citizens.

For more information, contact:

The American Heritage Education Foundation, Inc.
3701 West Alabama, Suite 200
Houston, Texas 77027-5224
(713) 627-2698
(713) 572-3657 facsimile
www.americanheritage.org

MEMORANDUM November 7, 2000

TO: All HISD Teachers and Administrators

FROM: Rod Paige
Superintendent of Schools

SUBJECT: ***AMERICA'S HERITAGE: AN ADVENTURE IN LIBERTY***
FIRST EDITION HISD SUPPLEMENTAL CURRICULUM

Texas Education Code 28.002 (h) *Required Curriculum* provides that "a primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage." In keeping with this mandate, I want to share with you a supplemental curriculum entitled, *America's Heritage: An Adventure in Liberty*. I believe this concept is vitally important to the future of our nation. With your leadership, this curriculum can positively and creatively influence our students to become productive, committed United States citizens. In so doing, the personal growth of our students will profoundly impact our entire socio-economic system of freedom and free enterprise.

I have a personal commitment to this effort. It is my hope that all of us in the Houston Independent School District share the strong, common goal and desire that our citizens and leaders of tomorrow will embrace the four key themes of this curriculum; freedom, unity, progress, and responsibility. Although this supplemental curriculum is a continuing, year-round program, it could also be intensified during November, HISD's American Heritage Month. Additional American Heritage Month materials and activities are included.

If you have any questions or need additional information, please contact your district superintendent. Thank you for your interest and support.

Rod Paige RP

RP:nb

cc: Board Members

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FOREWARD

The Miracle of America: A Revolutionary Idea

In only a little more than 200 years, our ancestors transformed this country from a wilderness into a great nation. This nation demonstrates what can be accomplished by free people who create a government limited to serving the people rather than being their master.

The moral and ethical basis of good conduct was derived from the faith that built America. That faith grew from the common belief that each individual is endowed with basic rights and responsibilities by our Creator. That is the foundation of our democratic republic expressed in the Declaration of Independence.

Today, we live in a highly interdependent society that cannot work well unless there is a general agreement on the rules of good conduct and the penalties for the violation of these rules. Our Founding Fathers also emphasized that a democratic republic cannot survive without a high degree of literacy and knowledge.

More importantly, the survival of our democratic republic depends on trustworthy citizens who support a common set of moral and spiritual values for individual conduct, values rooted in the beliefs and knowledge of the Founders of America who were responsible for writing the Declaration of Independence.

The character of society is determined by how well it transmits true and time-honored values from generation to generation. These values are not an add-on or supplement to national values but rather determine the character and essence of the country itself.

I commend the educators who will use this material in teaching their students the roots of our heritage and the responsibilities of American citizenship as well as the need for all of us to express our patriotism and love of country to those we touch.

Dr. Richard J. Gonzalez
Co-founder,
American Heritage Education Foundation

PREFACE

1776

From Oppression to Freedom

Modern History's First Experiment in Self-Government:

Do Americans Today Understand What Freedom Really Means?

The concepts of freedom, equality of all men, unalienable rights, and self-government of, by, and for the people are, historically, very new ideas. Modern man's recorded history is approximately 5,000 years old, yet the American experiment in self-rule is only 225 years old.

What types of governments or societies existed on our earth prior to 1776? Except for the city-states of classical Greece and, to a lesser degree, parliamentary England after the 1642-48 English civil war, all nations were organized in one form or another under "Ruler's Law" in which all power and decision-making rests in one central, authoritarian unit. Ruler's Law has existed in many forms:

Monarchy: a royal government headed by a monarch, a hereditary sovereign or king, who rules by 'divine right,'

Autocracy: government by an absolute dictator or monarch who rules by inherent right, subject to no restrictions,

Plutocracy: government by an exclusive, wealthy class,

Aristocracy: government by those with inherited titles or those who belong to a privileged class,

Oligarchy: government by an exclusive few,

Empire: an aggregate of kingdoms ruled by a monarch called an emperor,

and

Military Dictatorship: government by one or a few top military leaders.

(Skousen, *The Making of America* 44)

Ruler's Law possesses definite, key characteristics that its related forms of government tend to hold in common:

1. Government power is exercised by compulsion, force, conquest, or legislative usurpation.

2. Therefore, all power is concentrated in the ruler.

3. The people are treated as subjects of the ruler.

4. The land is treated as the realm of the ruler.

5. The people have no unalienable rights.

6. Government is by the rule of men rather than by the rule of law.

7. The people are structured into social and economic classes.

8. The thrust of government is from the ruler down, not from the people upward.

9. Problems are solved by issuing new edicts, creating more bureaus, appointing more administrators, and charging the people more taxes to pay for these services.

10. Freedom is not considered a solution to anything.

11. The transfer of power from one ruler to another is often by violence.

12. Countries under Ruler's Law have a history of blood and terror, in both ancient and modern times. The lot of the common people being ruled is one of perpetual poverty, excessive taxation, stringent regulations, and continuous, oppressive subjugation to the rulers.

(Skousen 44-45)

In 1776, Charles Pinckney, the first president of South Carolina's first congress and a delegate to the Federal Constitutional Convention, in considering the governments of the world, observed:

> "Is there at this moment, a nation upon earth that enjoys this right [freedom and democracy], where the true principles of representation are understood and practiced, and where all authority flows from and returns at stated periods to the people? I answer, there is not. All existing governments we know have owed their births to fraud, force, or accident" (Elliot cited in Skousen 3).

This stifling social oppression under Ruler's Law resulted in very little human or economic progress throughout history, meaning that little opportunity existed for commoners to improve their lives beyond a bare subsistence level. In Europe, including England, for a commoner or slave to even

consider the possibility of freeing himself from his life of social and economic servitude was simply unthinkable and would have been a treasonous offense of religious heresy. While the American colonists were left mostly to themselves from 1607 to 1763 and generally governed themselves along various themes emphasizing freedom of land ownership, market, trade, and religion for over 150 years, the English monarch and British parliament very strongly regarded the American colonies as English colonies and the colonists themselves as British subjects—not Englishmen.

In England, the monarchy (made up of hereditary rulers) dominated life. This dominance by the monarchy was justified and supported by the Church of England which solidified its own powerful standing in English life by affirming the monarchy's Divine Rights in exchange for ecclesiastical power. This system of state-church power imposed a social ladder on society with the monarch at the top of the ladder followed by a limited number of positions at each lower socio-political rung. The Church of England justified this hierarchical class order on the basis that this was God's will and was a part of the natural order of life—part of the great chain of existence from king to servant/slave that provided order for the entire universe. Further, England's schools and churches affirmed that no one could advance or prosper on this societal ladder above his or her predestined position. The English people were expected to know their place within this pre-established social class order and to duly perform the duties of their station in life.

When English parliamentary sovereignty became established in 1688 as a result of the English civil war, the monarch remained sovereign in name only. However, this change at the top of the socio-economic ladder did very little to affect the largest portion of the English population who still considered themselves ruled by the powerful upper-class of English life. The American colonists still considered themselves Englishmen ruled by the King of England.

Interestingly, several generations of American colonists from 1607 to the mid 1750's suffered few English impositions due to the colonies' slow economic development, distance from England, and general unimportance to England. The colonies, therefore, developed a rather natural free market and free trade system of capitalism based on private land ownership, individual initiative, competition, and supply and demand. Freedom of religion was also a key component of colonial life. However, the colonists' relative freedom from English imposition did not last. Because of the French and Indian Wars (1754-1763), the British national debt doubled, and by the 1760's, the English treasury lay in shambles. As the colonial economic system grew, England began a stringent effort to enforce the Navigation Acts of a hundred years earlier in the 1650's and 1660's. The Proclamation Line of 1763, the Sugar Act (1764), the Currency Act (1764), the Stamp Act (1765), the Townsend Acts (1767), the Quartering Acts (1766 and 1774), and the Quebec Act (1774) were all attempts by the British to replenish its treasury and to gain absolute control of the colonists and their growing colonial economy.

As the American colonists gradually realized that the king and Parliament would never voluntarily release their control over their subjects and that the socio-political structure of society was unlikely to change with respect to how England viewed the colonists, they began to recognize their ultimate need to permanently break away from their homeland. They were not, however, brash or ignorant in making their decision. Many of these Americans, who would later become the "Founding Fathers" of a new country, carefully studied their philosophical position with England. They knew the classics and Biblical, Greek, Roman, European, and American history. Their minds, Skousen notes, were arguably more far-ranging and profound than those of any collection of advanced scholars in the field of political studies up to and including the present: "The Founders often read the classics in their original language. They were familiar with Plato's Republic and his Laws; with Aristotle's Essay on

Politics; with the political philosophy of the Greek historian, Polybius; with the great defender of republican principles, Cicero; with the legal commentaries of Sir Edward Coke; with the essays and philosophy of Francis Bacon; with the essays of Richard Hooker; with the dark foreboding of Thomas Hobbes' Leviathan; with the more optimistic and challenging Essays on Civil Government, by John Locke; with the animated Spirit of The Laws, by Baron Charles de Montesquieu of France; with the three-volume work of Algenon Sidney who was beheaded by Charles II in 1683; with the writings of David Hume; with the legal commentaries of Sir William Blackstone; and with the economic defense of a free market economy by Adam Smith called The Wealth of Nations" (61).

In June of 1776, Thomas Jefferson, a well-educated Virginian lawyer, was asked to formally prepare and write America's Declaration of Independence. None of the Founders "could have brought to this assignment a more profound and comprehensive training in history and political philosophy than Jefferson. Even by modern standards, the depth and breadth of his education are astonishing. . . . He had begun the study of Latin, Greek, and French at the age of nine. At the age of sixteen he had entered the College of William and Mary at Williamsburg as an advanced student. At the age of nineteen he had graduated and immediately commenced five years of intensive study with George Wythe, the first professor of law in America. During this period he often studied twelve to fourteen hours per day. When he was examined for the bar he seemed to know more than the men who were giving him the examination. By the time Jefferson had reached early adulthood, he had gained proficiency in five languages. He had studied the Greek and Roman classics as well as European and English history and the Old and New Testaments" (Skousen 27).

While studying the history of ancient Israel and before writing the Declaration, Jefferson made a significant discovery. He saw that at one time the Israelites, after having come out of Egypt between 1490 and 1290 B. C., practiced the earliest and most efficient form of representative government in an otherwise tyrannical world. The Israelites were led by Moses, a man of great notoriety among the Jews in that day because he had spent forty years in the palace of the Pharaoh and was being groomed in Ruler's Law to succeed the Pharaoh on the throne of Egypt. (Skousen 48) Governing 600,000 Israelites by Ruler's Law, as it were, proved an impossible task for Moses. He therefore organized the people into groups of a thousand families with one leader per group. He further divided these groups into smaller sub-groups each with its representative leader—hence history's first experiment in representative self-government among family groups. (50) "As long as the Israelites followed these fixed patterns of constitutional principles they flourished. When they drifted from these principles, disaster overtook them" (27).

Jefferson also learned that the Anglo-Saxons, who came from around the Black Sea in the first century B. C. and spread all across Northern Europe, somehow got hold of and practiced these same principles following a pattern almost identical to that of the Israelites until around the eighth century A. D. . (Skousen 32) As a result, the Anglo-Saxons were an extremely well-organized and efficiently-governed people in their day. (54-55) Jefferson became proficient in the language of the Anglo-Saxons in order to study their laws in their original tongue. He noticed the striking resemblance between Anglo-Saxon laws and the system of representative law established by Moses. Jefferson greatly admired these laws of representative government—"Ancient Principles" he called them—and constantly emphasized the need to return to them. (27-28) He expressed his admiration for these laws in a letter to Edmund Pendleton on August 13, 1776:

> "Are we not better for what we have hitherto abolished of the feudal system: Has not every restitution of the ancient Saxon laws had happy effects? Is it not better now that

> we return at once into that happy system of our ancestors, the wisest and most perfect ever yet devised by the wit of man, as it stood before the eighth century?" (Boyd cited in Skousen 33)

"It is interesting," notes Skousen, "that when Jefferson was writing his drafts for the Virginia Constitution prior to his writing of the Declaration of Independence, he was already emphasizing the need to return to the 'Ancient Principles'" (28).

"For seventeen days Jefferson composed and revised his rough draft of the Declaration of Independence. The major portion of the Declaration is taken up with a long series of charges against King George III [of England]. However, these were nearly all copied from Jefferson's draft of the Virginia Constitution and his summarized view of the Rights of British America. To copy these charges into the Declaration would not have taken him more than a single day. What was he doing the other sixteen days? It appears that he spent most of the remaining time trying to structure into the first two paragraphs of the Declaration at least eight of the Ancient Principles in which he had come to believe. His views on each of these principles are rounded out in other writings, and from these various sources we are able to identify the following fundamental principles in the first two paragraphs of the Declaration of Independence:

1. Sound government should be based on self-evident truths. These truths should be so obvious, so rational, and so morally sound that their authenticity is beyond reasonable dispute.

2. The equal station of mankind here on earth is a cosmic reality, an obvious and inherent aspect of the law of nature and of nature's God.

3. This presupposes (as a self-evident truth) that the Creator made human beings equal in their rights, equal before the bar of justice, and equal in His sight (with individual attributes and personal circumstances in life varying widely).

4. These rights which have been bestowed by the Creator on each individual are unalienable; that is, they cannot be taken away or violated without the offender coming under the judgment and wrath of the Creator. A person may have other rights, such as those which have been created as a 'vested' right by statute, but vested rights are not unalienable. They can be altered or eliminated at any time by a government or ruler.

5. Among the most important of the unalienable rights are the right to life, the right to liberty, and the right to pursue whatever course of life a person may desire in search of happiness, so long as it does not invade the inherent rights of others.

6. The most basic reason for a community or a nation to set up a system of government is to assure its inhabitants that the rights of the people shall be protected and preserved.

7. And because this is so, it follows that no office or agency of government has any right to exist except with the consent of the people or their representatives.

8. It also follows that if a government, either by malfeasance or neglect, fails to protect those rights—or, even worse, if the government itself begins to violate those rights—then it is the right and duty of the people to regain control of their affairs and set up a form of government which will serve the people better"

(Skousen 28).

From their studies of the classics and these ancient principles, the Founders sorted out what they considered to be the best and most enduring ideas for the prosperity and peace of a free people under a republican system of self-government. Their resulting Declaration of Independence established a New Order of the Ages based on the belief that man's freedom was a gift from God, not given or taken away by a mortal king as was the case under the Old Order.

The principles of the Declaration were clearly very strongly influenced by the Bible. The Founders interpreted the Bible differently than the Church of England. They believed that the Bible revealed that all individuals regardless of race, creed, or color were free and equal in the eyes of God and should not be subservient to mortal men or man-made, vested rights but only to God Himself and His laws. The Founders' independent study of the Bible without the coercion of the state Church of England helped them reach these general beliefs—that all men, whether they believed in God or not, whether or not they were of different religious, social, economic, or educational backgrounds; of different mental or physical characteristics and ability; or of any other difference of any kind; were equal before the Creator with respect to their God-given rights. This Declaration, our nation's birth certificate, is still considered next to the Bible history's greatest written philosophy about the unalienable rights of every man, woman, and child and the people's free will to govern themselves in any way they choose. The first two paragraphs of the Declaration express these convictions:

> *When in the Course of human Events, it becomes necessary for one People to dissolve the Political Bands which have connected them with another, and to assume among the Powers of the Earth, the separate and equal Station to which the laws of Nature and of Nature's God entitle them, a decent Respect to the Opinions of Mankind requires that they should declare the causes which impel them to the Separation.*
>
> *We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Government long established should not be changed for light and transient Causes; and accordingly all Experience hath shewn, that Mankind are more disposed to suffer, while Evils are sufferable, than to right themselves by abolishing the Forms to which they are accustomed. But when a long Train of Abuses and Usurpations, pursuing invariably the same Object, evinces a Design to reduce them under absolute Despotism, it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future Security. Such has been the patient Sufferance of these Colonies; and such is now the Necessity which constrains them to alter their former Systems of Government. The History of the present King of Great-Britain is a History of repeated Injuries and Usurpations, all having in direct object the Establishment of an*

absolute Tyranny over these States. To prove this, let Facts be submitted to a candid World.

It is clear that the Founder's believed that this new nation was "A Nation Under God" even if all of its citizens did not necessarily believe in a Supreme Being or attend a church. Indeed, a non-believer's right of thought opposing the idea of a God was just as important and just as protected as the right of others to believe in a Supreme Being as the source of the nation's freedom. Accordingly, the Founders felt that a national government should not create a national church to support the government and to coerce its citizens as the English government had done with the Church in England—that in this sense the government and the church should be separate in order to maintain equality among all religions. They believed that private citizens should have the freedom to choose their own religion and church without government influence as well as the freedom not to believe in God or to attend any church. At the same time, the Founders themselves strongly believed that the underpinnings and foundation of the new country and the rights of its people were inspired by a Supreme Being whose law was delineated in the Bible—a book which they felt should be openly and freely discussed and studied in their schools, businesses, and governmental institutions. The conclusion of the Declaration evinces their belief both in a Supreme Being and in the right to freedom from British rule:

We, therefore, the Representatives of the United States of America, in General Congress, assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, that these United Colonies are and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

To declare independence from Britain meant to proclaim the religious, social, political, and economic freedom of all men. The implications of this Declaration of Independence were historically monumental by philosophically undermining the entire socio-economic, political, and religious foundations of any country under Ruler's Law. Since every nation in the world in 1776 governed its people under Ruler's Law, the Declaration of Independence tore out by its roots the centuries-old practice of government under such law.

It is therefore easy to understand that "the delegates who subscribed to this document signed their names in blood. Had the Americans lost the Revolutionary War and been captured, they would have been summarily convicted of treason. The penalty for high treason against the British Crown was:

To be hanged by the head until unconscious.
Then cut down and revived.
Then disemboweled and beheaded.
Then cut into quarters.
Each quarter was to be boiled in oil and the remnants scattered abroad so that the last resting place of the offender would remain forever unnamed, unhonored, and unknown"

(Skousen 31).

In light of such severe, appalling penalty, what kind of men were they that declared themselves to be independent from Great Britain? Were they thoughtless, impulsive, violent men? Twenty-four were lawyers and jurists, eleven were merchants, and nine were farmers and large plantation owners. They were men of means, well-educated. They signed the Declaration of Independence knowing full well that the penalty would be death if they were captured.

Five signers were captured by the British as traitors and tortured before they died. Twelve had their homes ransacked and burned. Two lost their sons in the Revolutionary Army. Another had two sons captured. Nine of the 56 fought and died from wounds and the hardships of the Revolutionary War.

Carter Braxton of Virginia, a wealthy planter and trader, saw his ships swept from the seas by the British navy. He sold his home and properties to pay his debts and died in rags.

Thomas McKean was so hounded by the British that he was forced to move his family almost constantly. He served in the Congress without pay, and his family was kept in hiding. His possessions were taken from him, and poverty was his reward.

Vandals or soldiers or both looted the properties of Ellery, Clymer, Hall, Walton, Gwinnett, Heyward, Ruttledge, and Middleton.

At the Battle of Yorktown, Thomas Nelson, Jr. found that the British General Cornwallis had taken over the Nelson home for his headquarters. Nelson quietly urged General George Washington to open fire, which was done. The home was destroyed, and Nelson died bankrupt.

Francis Lewis had his home and properties destroyed. The enemy jailed his wife, and she died within a few months.

John Hart was driven from his wife's bedside as she was dying. Their 13 children fled for their lives. His field and his grist mill were laid waste. For more than a year he lived in forests and caves, returning home after the war to find his wife dead, his children vanished. A few weeks later he died from exhaustion and a broken heart.

Norris and Livingston suffered similar fates.

Such were the stories and sacrifices of the American Revolution. These were not wild-eyed, rabble-rousing ruffians. They were soft-spoken men of purpose and education. They had security, but they valued freedom more.

And so it has been with thousands of Americans for over two centuries who have sacrificed their lives and bodies to defend freedom from oppression not only in America but in countries all around the world. Americans have long helped natives in war-torn lands rebuild their once-oppressed countries in order to stimulate the common people to lift themselves out of destruction and depression. The spirit of freedom and brotherhood among Americans and toward other nations has many times inspired a responsibility to help our neighbors as well as old war enemies. This spirit is based on the strong American belief that every person's right to life, liberty, and the pursuit of happiness should be respected. Helping rebuild Germany and Japan after World War II are perhaps our country's most dramatic examples of forgiving our enemies and helping them recover from war's devastation once

their tyrannical and aggressive governments were deposed.

When considering why so many average Americans have dedicated their lives to preserve freedom, we consider the same reasons why millions of people from all over the world have migrated to America from foreign countries—for the political, social, religious, and economic rights preserved in our nation and defended by its Constitution for all of its citizens:

The Right to worship God in one's own way or the freedom to not worship or believe in a Supreme Being,
The Right to free speech and a free press,
The Right to assemble peaceably,
The Right to petition for redress of grievances,
The Right to privacy in our homes,
The Right of Habeas Corpus and no excessive bail,
The Right to Trial by Jury and to be innocent until proven guilty,
The Right to move about freely at home and abroad,
The Right to free elections and personal secret ballot,
The Right to work in callings and localities of our choice,
The Right to bargain with our employers and employees,
The Right to go into business and compete for a profit,
The Right to bargain for goods and services in a free market,
The Right to contract our affairs,
The Right to the service of government as a protector and referee, and
The Right to freedom from arbitrary government regulation and control.

These are the rights in our country for which Americans are willing to die. Such devotion has reaped a nation with unprecedented freedoms and prosperity.

Jefferson was one such American of devotion. During the American Revolution, Jefferson, who had become a delegate to Virginia's state assembly, was convinced that the Americans were going to win their battle for freedom. He feared, however, that they would not know what to do with their freedom. It therefore was Jefferson's hope that if he could guide Virginia to be a model for other states, that the newly liberated people would be psychologically and constitutionally prepared to govern themselves. In October, 1776, Jefferson literally smothered the Virginia House with new bills in an effort to establish "a system by which every fiber would be eradicated of ancient or future aristocracy and a foundation laid for a government truly republican" (Bergh cited in Skousen 34).

Although it took many years to achieve the adoption of all of his reforms, Jefferson, due to his unusual intensity and aggressiveness, was largely responsible for clearing out traces in Virginian law of feudalism, aristocracy, slavery, and the worst parts of British statutory law which Virginia had inherited from England.

By the end of the nineteenth century, this political and economic formula for freedom that Americans continually fought for was beginning to give Americans the highest standard of living in the world. With less than 6 percent of the earth's population, our spirit of freedom, creativity, ingenuity, and private economic opportunity enabled Americans to produce more than half of the entire world's goods and services. The free-market, capitalist system envisioned by the Founders was based on those prevalent and firm ideas of freedom and individual rights combined with the following common-sense ideas of economic advancement:

1. Nothing in our material world comes from nowhere—everything in our economic life has a source, a destination, and a cost that must be paid.

2. All production of goods and services come from the people, not government. Everything that government gives to the people must first be taken from the people.

3. In a free country, all employment ultimately comes from customer purchases. If there are no customers, there can be no jobs. Worthwhile job security is derived from these customer purchases and customer satisfaction.

4. Job security is a partnership between workers and management to win and hold customers.

5. Workers' wages are the principal cost of goods and services. Wage increases must result in greater production to avoid increases in the cost of living.

6. All productivity is based on natural resources whose form and placement are changed by human energy with the aid of tools.

7. In a free country, tools come from temporary self-denial by people in order to use part of their earnings as capital for the production of new tools.

8. The productive and efficient use of tools has always been highest in a free and competitive country where decisions and action are made by free, progress-seeking individuals, rather than in a central government-planned society under Ruler's Law where the Ruler's primary goal is to preserve their position of authority over the people.

A comparison between United States and Soviet Union economies in 1991 demonstrates the eighth item:

	U. S. A (Free country)	U. S. S. R. (Centrally-Planned country with Ruler's Law)
Population	250,410,000	290, 938,000
Area	3,618,769 sq. mi.	8,649,496 sq. mi.
Gross National Product (GNP)	$5,234 billion	$2,526 billion
GNP Per Capita	$21,040	$8,819
Food Expenditure as a % of Total Private Consumption	12.2%	38.0%
Telephones/100 people.	76.0	11.3
Televisions/1,000 people	812	319
Radio Receivers/1,000 people	2,120	686
No. of deaths/1,000 people	8.7	10.4
Life Expectancy	75.6	69.5
Infant Mortality Rate/1,000 live births	10.4	23.7

(*Statistical Abstract of the U. S.*, 1991)

It is clear that as a free-market economy based on free private opportunity, the U. S. has achieved a larger and more mature economy than the Soviet Union under a Ruler's Law system even though the Soviet Union has more resources including coal, natural gas, crude oil, cement production, nitrous ammonia production, marketable potash, iron ore, manganese ore, zinc, nickel, lead, and chromite. The United States' economic system, a product of a free society and free economic opportunity, encourages individuals and companies to make a profit in order for business to expand, thereby providing more jobs, more production, and increasing profits that, ultimately, help the entire nation to prosper.

Hard work, frugality, and thrift then make possible compassion for those citizens who need assistance. Alexis de Toqueville wrote in 1835 in his *Democracy in America* that Americans were on their way to becoming the most prosperous and best educated people in the world who also happened to be the freest people in the world. The world would also learn that America contained the most generous people on earth. Private citizens in the U. S. donate billions of dollars to charities, schools, universities, libraries, foundations, hospitals, churches, synagogues, and a multitude of other important benevolent causes. In 1993, for example, individual charitable deductions amounted to a staggering $126.2 billion from over 35,700 non-governmental, non-profit organizations whose goals were to assist and aid in social, educational, religious, and other activities deemed to serve the common good. Over 68,400 grants exceeding $10,000 and totaling $5.6 billion were made by private and corporate foundations across the country. An astonishing forty-eight percent (48%) of the adult population contributed an average of 4.2 volunteer hours per week across the country in the fields of education, health, human services, youth development, religion, foreign aid, etc. This level of voluntary gifts, donations, and time far exceeds that of any other country in the history of mankind.

Though free-market economics based on free political institutions and personal freedom and responsibility was not widespread throughout the world even in the 1990's, the free-market economy based on freedom has proven itself enormously successful. The Founding Fathers should receive the highest scores possible for designing a remarkable system of social, political, and economic freedom that, while having imperfections, is the admiration of people everywhere who believe that freedom, as envisioned by the Declaration of Independence and the U. S. Constitution, is the key to progress for the betterment of all of a nation's citizens.

It is vitally important that our students and our citizens become increasingly proficient and well-informed in the inspired, virtuous, and noble ideas that are our nation's foundation for a free society. By learning and understanding the basic philosophical concepts of freedom, education, private investment, job growth, and profit incentive, our students will be better equipped to approach the responsibilities and tasks to act and serve in society. In knowing our nation's historical and political foundation, our citizens and students will perpetuate this ongoing miracle of a viable and energized constitutional republic so that freedom, unity, progress, and responsibility through this system of self-government will not perish from our earth.

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★ American Heritage Themes ★

Purpose

The purpose of this lesson is to develop meanings for the four important themes in American history--freedom, unity, progress, and responsibility. One theme is stressed in each of the lessons in the curriculum materials. The themes are drawn from the work of the Founding Fathers as they discussed the formation of the United States.

Objective

1. The student will define freedom, unity, responsibility, and progress in American history.
2. The student will analyze and discuss how various quotations relate to these themes.
3. The student will illustrate the meaning of one selected theme.

Theme

Americans are responsible for communicating to future generations a blueprint of the ideas of how the country was formed, gained freedom, and unified our citizens to progress toward a better life for ALL people.

NCSS Standards

IIc. identify and describe significant historical periods and patterns of change within and across cultures.
IXf. analyze or formulate policy statements demonstrating an understanding of concerns, standards, issues, and conflicts related to universal human rights.
Xa. explain the origins and interpret the continuing influence of key ideals of the democratic republican form of government....
Xd. practice forms of civic discussion and participation consistent with the ideals of citizens in a democratic republic.

Time

60 minutes

Materials

- ★ American Heritage Themes handout
- ★ American Heritage Themes templates
- ★ "From Oppression to Freedom" Essay (in Introduction)
- ★ Art supplies (as needed)

Preparation

- ★ Copy American Heritage Themes handout for each student.
- ★ Copy American Heritage Themes templates (as needed).
- ★ Gather art supplies (as needed).
- ★ Expand the American Heritage Themes to poster size and post in room.

Focus

Students are to develop the meaning of the four themes of American Heritage. Write the words freedom, unity, progress, and responsibility on the board. Ask students what they think each of the words mean, and write their responses near the word. Read one of the quotes from the handout about each one of the themes, and ask students how the quotes relate to the definitions the students have provided.

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Activity

Teachers may select one or more of these activities for their students.

1. Have groups of students develop a frieze to illustrate one of the themes. Each group may demonstrate and/or explain to the class their illustration.
2. Have students working individually or in groups use copies of the templates, art paper, or poster boards to illustrate the meaning of one or more of the themes. Students could use words, sentences, paragraphs, pictures, or quotations from the handout or from other sources. Student should consider the meaning of the themes for Americans today.
3. Have students develop a bumper sticker to illustrate the meaning of one or more of the themes.
4. Read/discuss the essay, "From Oppression to Freedom," as a class. Have students individually or in groups analyze segments of the essay in order to understand its terms and meaning. Students can share and discuss their analyses with the rest of the class.

Closure

Remind students that freedom, unity, progress, and responsibility are themes from American history that are still important today.

Freedom, unity, progress, and **responsibility** are central themes in America's heritage that generations of Americans from various backgrounds have embraced for over two centuries.

Freedom

The God who gave us life,
gave us liberty at the same time.
Thomas Jefferson
1743-1826

There is nothing on this earth
more glorious than a man's freedom, and
no aim more elevated than liberty.
Thomas Paine
1737-1809

Is life so dear or peace so sweet,
as to be purchased at the price
of chains or slavery?
Forbid it, Almighty God!
I know not what course
others may take, but as for me,
give me liberty or give me death!
Patrick Henry
1736-1799

Unity

We must all hang together, or assuredly
we shall all hang separately.
Benjamin Franklin
1706-1790

E PLURIBUS UNUM – From Many, One
The Great Seal of the United States
1782

Be Americans.
Let there be no sectionalism,
no North, South, East or West:
You are all dependent on one another
and should be in union.
In one word, be a nation:
be Americans, and be true to yourselves.
George Washington
1732-1799

Progress

This society of free, self-reliant individuals has brought about the greatest outburst of creative human energy ever known, producing more social, economic, and health advances than ever before in history—the miracle that is America. Yet there is more to do. The most rapid, permanent progress is achieved through individual freedom, education, productivity, and morality.
Dr. Richard J. Gonzalez
1912-1998

The main fuel to speed our progress is
our stock of knowledge, and the brake is
our lack of imagination. The ultimate
resource is people—skilled, spirited and
hopeful people who will exert their wills
and imaginations for their own benefit,
and so, inevitably, for the benefit of all.
Julian Simon
1932-1998

Responsibility

God grants liberty only to those
who love it and are always ready
to guard and defend it.
Daniel Webster
1782-1852

For, however loftily the intellect of man
may have been gifted, however skillfully it
may have been trained, if it be not guided
by a sense of justice, a love of mankind,
and a devotion to duty, its possessor is
only a more splendid, as he is a more
dangerous, barbarian.
Horace Mann
1796-1859

And so, my fellow Americans,
ask not what your country can do for you;
ask what you can do for your country.
John F. Kennedy
1917-1963

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★ American Heritage Themes ★

Freedom	***Unity***
Progress	***Responsibility***

★The Mayflower Compact ★

Purpose

The purpose of this lesson is to discuss the responsibilities of the colonists in establishing a new colony and to understand the idea of a social contract, a new and untested concept in the 1600's, which was formed among the colonists to help them make decisions.

Objective

1. The student will formulate a social compact in his or her class after a discussion of the Mayflower Compact.
2. The student will analyze the Mayflower Compact.

Theme-Responsibility

Each person makes decisions and is responsible for his or her actions related to his or her decisions.

NCSS Standards

Ia. analyze and explain the ways groups, societies, and cultures address human needs and concerns.
IIf. apply ideas, theories, and modes of historical inquiry to analyze historical and contemporary development, and to inform and evaluate actions concerning public policy issues.
Vc. describe the various forms institutions take, and explain how they develop and change over time.
Vg. analyze the extent to which groups and institutions meet individual needs and promote the common good in contemporary and historical settings.
VIc. analyze and explain ideas and mechanisms to meet neesd and wnats of citizens, regulate territory, manage conflict, establish order and security, and balance competing conceptions of a just society.
IXb. explain conditions and motivations that contribute to conflict, cooperation, and interdependence among groups, societies, and nations.
Xi. construct a policy statement and an action plan to achieve one or more goals related to an issue of public concern.

Time

60 minutes

Materials

- ★ American Heritage Themes handout
- ★ Mayflower Compact
- ★ Dictionaries
- ★ Student handbook or copy of school rules and policies
- ★ Material to post final product

Preparation

- ★ Copy handouts
- ★ Gather art supplies (as needed).

Focus

Students will develop an understanding of a social contract as exemplified by the Mayflower Compact. The central idea that a group of people could decide among themselves what others could and could not do was the birth of a new form of government of the people, by the people, and for the people. Before this time the King made all of the decisions about how people were to interact with one another.

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Activity

1. Introduce the terms social contract, covenant, compact, promise, agreement, etc. What are they? What do they mean? Have students get into groups, assigning one term to each set of students to define and to give examples of it being used.

2. Share definitions and examples.

3. Pass out handouts. Read and encourage students to make notes.

4. Explain that almost every group of people who meet to achieve a goal, like passing a class, develops a system of rules and makes agreements among themselves in order to enjoy their basic rights and freedoms. As a class, students will define the Mayflower Compact and realize how it commits the Pilgrims to religion, government, and civility. Next students will create their own compact as a class.

5. Ask students in groups to pick out a few rules from their student handbook (or copy of school policies) and justify why those rules are there and/or why they should be omitted. After each group has completed the task, let students share their insights with the class, and then have the whole class seriously consider what promises or compacts they will need to enjoy their basic rights and freedoms in order to prosper/ succeed in the class.

   As a whole class, brainstorm a list of classroom rules, edit it, and create a final draft which everyone will sign. Post this class compact!

Closure

Write a one-paragraph evaluation of the class compact.
Provide evidence to support your evaluation.

The Mayflower Compact

Self-Government

The English separatist Puritans living in Leyden, Holland, desired for various reasons to transplant their colony to America. In 1619 they secured a patent from the Virginia Company of London for a private plantation in Virginia. The Pilgrims, reinforced by some seventy "strangers" from London, sailed for Plymouth in September 1620 and arrived off Cape Cod in November. They missed the coast of Virginia. Some of the London recruits were a discontented, "undesirable lot" and made "mutinous speeches." Bradford writes that the "strangers" boasted that they were not under the jurisdiction of the Virginia Company and "would use their own liberty, for none had the power to command them, the patent they had being for Virginia and not for New England..." (William Bradford, *Of Plymouth Plantation-1620-1647: A New Edition: The Complete Text, with Notes and an Introduction*, Samuel Eliot Morison, Alfred A. Knopf, New York, 1993, p. 75).

Since the patent, or charter, was only good in Virginia, some form of government had to be established if the settlers were to maintain peace. The Pilgrim leaders drew up the Mayflower Compact, *the first self-imposed self-government* not only in America but in the world. This has become one of the most important documents in American history. The original parchment has long since disappeared. The current text was first printed in London in 1622 in a pamphlet generally known as the "Mourt's Relation." This pamphlet contained excerpts from the early colony's journals and histories. The Mayflower Compact was not intended as a constitution but was an extension of the customary church covenant to help the Pilgrims define their civil circumstances.

This church covenant, sometimes called covenantal doctrine or covenantal theology, as opposed to the "Ruler's Law" under monarchies, was inspired by religious teaching. These separatist Puritans, as well as later non-separatist Puritan arrivals to America, viewed church and state alike as "associations of the willing faithful." They were further convinced that the proper form of organization was not a matter of kings and bishops dictating the configuration of worship. They thought the proper form of organization should be one of "believers joined together in voluntary fashion" (M. Stanton Evans, *The Theme Is Freedom: Religion, Politics, and the American Tradition*, Regnery Publishing, Inc., Washington, D.C., 1994, pp. 187-88, 193-94).

separatist Puritans
These Puritans thought that the Church of England was tainted. They wanted to purify the Church of what they thought were transgressions. Because they believed that the Church of England was too corrupt to change, they withdrew and separated themselves from it.

Pilgrims
The name acquired by those who separated themselves from the Church of England (same as separatist Puritans)

"strangers"
This was the name that the separatist Puritans/Pilgrims gave those who traveled to the New World with them but who were not a part of their particular group.

William Bradford
Bradford was the guiding light and principal leader of Plymouth Colony. He was the Governor for a total of 33 one-year terms between 1621 and 1656. Of Plymouth Plantation-1620-1647, written by Bradford, is the history of the Pilgrim Colony and was first published the year of his death in 1656.

covenant
An agreement of and between agreeing parties. A formal binding agreement.

non-separatist Puritans
Those Puritans that hoped to purify the Church of England while remaining members of the Church.

Additional Reading

★ Demos, John. *A Little Commonwealth: Family Life in Plymouth Colony*. New York: Oxford University Press, 1970.

★ Morgan, Edmund S. *The Puritan Family: Religion and Domestic Relations in Seventeenth-Century New England*. New York: Harper & Row Publishers, 1966.

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Later Implications

Another example and extension of church covenant as the basis for self-government may also be found in the words of the "Fundamental Orders of Connecticut" (1639). Connecticut was established and led by the Reverend Thomas Hooker. In January 1639, the freemen of the towns of Hartford, Whethersfield, and Windsor met in Hartford and drew up the first constitution that created a government, in part ". . . well knowing where a people are gathered the word of God requires that to mayntayne (maintain) the peace and union of such a people there should be an orderly and decent Government established according to God. . . .[we] doe therefore assotiate (associate) and conloyne (conjoin) our selves to be as one Publike (Public) State or Commonwelth; and doe, . . .enter Into Combination and Confederation togather , to mayntayn and presearve the liberty and purity of the gospell of our Lord Jesus which we now professe. . ."(Henry Steele Commager, Documents of American History, F.S. Crofts & Co., New York, 1943, pp. 22-23). (original spelling)

Further, in 1636, the colony of Providence, later to become part of Rhode Island, was established by the strict separationist Roger Williams because he abhorred what he claimed were "conforming churches" of Massachusetts. He also had been exiled because of his dissent and nonconforming views regarding the relations of church and state. In 1644, the charter for the colony of Rhode Island went into effect. The charter stated that the government should be "democraticall, that is a government held by the free and voluntary consent of all, or the greater part of the free inhabitants" (Evans, p. 195).

strict separationist
One who believed in a complete separation of church and government since government would corrupt the church.

"conforming churches"
Those churches in agreement with the Church of England and the King.

Colonial Quotations Supporting Self-Government

"The *multitude* I am speaking of, is the *body of the people*—no *contemptible* multitude—for those sake government is instituted; or rather, who have themselves erected it, solely for *their own good*—to whom even kings and all in subordination to them, are strictly speaking, servants and not masters." (Adams' emphasis)

Samuel Adams, American Revolutionary statesman and Founding Father, Essay in *Boston Gazette*, 1771

"Governors have no right to seek what they please; by this, instead of being content with the station assigned them, that of honorable servants of the society, they would soon become Absolute masters, Despots, and Tyrants."

Resolutions of the Town of Boston, "The Rights of the Colonists," 1772

"That all power is rested in, and consequently derived from, the people; that magistrates are their trustees and servants. . . ."

Virginia Bill of Rights, the most famous of the Declaration of Rights of the original state Constitutions, drafted by George Mason, American Revolutionary Statesman and Founding Father, 1776

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The Mayflower Compact

NOVEMBER 11, 1620

In the Name of God, Amen. We, whose names are underwritten, the Loyal Subjects of our dread Sovereign Lord King James, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, & c. Having undertaken for the Glory of God, and Advancement of the Christian Faith, and the Honour of our king and Country, a Voyage to plant the first colony in the northern Parts of Virginia; Do by these Presents, solemnly and mutually in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Futherance of the Ends aforesaid; And by Virtue hereof do enact, constitute, and frame, such just and equal Laws, Ordinances, Acts, Constitutions, and Offices, from time to time, as shall be thought most meet and convenient for the general Good of the Colony; unto which we promise all due Submissions and Obedience. In Witness whereof we have hereunto subscribed our names at Cape Cod the eleventh of November, in the Reign of our Sovereign Lord King James of England, France, and Ireland, the eighteenth and of Scotland, the fifty-fourth. Anno Domini, 1620.

Mr. John Carver
Mr. William Bradford
Mr. Edward Winslow
Mr. William Brewster
Isaac Allerton
Miles Standish
John Alden
John Turner
Francis Eaton
James Chilton
John Craxton
John Billington
Joses Fletcher
John Goodman
Mr. Samuel Fuller
Mr. Christopher Martin
Mr. William Mullins
Mr. William White
Mr. Richard Warren
John Howland
John Ridgate

Mr. Stephen Hopkins
Digery Priest
Thomas Williams
Gilbert Winslow
Edmund Margesson
Peter Brown
Richard Bitteridge
George Soule
Edward Tilly
John Tilly
Francis Cooke
Thomas Rogers
Thomas Tinker
Edward Fuller
Richard Clark
Richard Gardiner
Mr. John Allerton
Thomas English
Edward Doten
Edward Liester

★ The Declaration of Independence ★

Purpose

The purpose of this lesson is for students to examine the Declaration of Independence and ascertain its true intent and its eventual realization.

Objective

1. The student will analyze the Declaration of Independence.
2. The student will summarize the intentions of the Declaration.

Theme-Freedom

The Declaration of Independence was written by the Founding Fathers to express their belief that all people have certain rights. The freedoms written in the laws of the nation have their beginning in the Declaration of Independence.

NCSS Standards

IIc. identify and describe significant historical periods and patterns of change within and across cultures.

VIb. explain the purpose of government and analyze how its powers are acquired, used, and justified.
VIf. analyze and evaluate conditions, actions, and motivations that contribute to conflict and cooperation within and among nations.
Xa. explain the origins and interpret the continuing influence of key ideals of the democratic republican form of government....
Xh. evaluate the degree to which public policies and citizen behaviors reflect or foster the stated ideals of a democratic republican form of government.

Time

60 minutes

Materials

- ★ American Heritage handouts
- ★ Declaration of Independence
- ★ Declaration of Independence puzzle
- ★ Dictionaries
- ★ Material to post final product

Preparation

- ★ Copy handouts
- ★ Gather supplies (as needed).

Focus

Anecdote: Explain to the class that you heard this morning of a country very close to us that was having a serious problem. A small group of leading citizens had decided that they should rule the country and were in the process of overthrowing the government. How can a small number of people make such a decision for all the people? What should the government do? What should happen to the rebels if they are not successful? After a brief discussion tell the students that such was the United States in the 1770s and that the small group of citizens were our Founding Fathers. Today we will look at the actual document that got this group into so much trouble with the King of England.

Activity

1. Introduce the handout on "English Tyranny" and read together as a class. Divide the class into small groups, and require students to define the perceived hostile acts leading to the Battles at Lexington and Concord from 1763-1775.

2. Share definitions, and discuss how these acts made many of the colonists feel. Concentrate especially on the economy of the colonies and the perception of citizenship by colonists.

3. Now pass out the handout on "Unalienable Rights." Read aloud, and encourage students to make notes as you relate the information to examples from today. Students are always interested in what rights they have and will be eager to add to your comments and to ask questions. Whenever a difficult question arises, tell students that their rights are basically defined in two documents and that you all are looking at one of them. Students can learn and understand the contents of these documents to find out more.

4. Explain that this declaration of freedom is written in four different parts: a preamble or introduction, a demand, a list of grievances, and an ultimatum or request for action. Pass out a copy of the Declaration and help students see where each part appears in the document.

5. Together, read the preamble and discuss what it means to us, to the people who wrote it in 1776, and to the people who read it both in the colonies and in England. What does it actually say? What does it actually mean? Do the same exercise with the next paragraph in the document.

6. Have students individually or in groups piece together the cut out, scrambled text segments of the Declaration. Each student/group may take one different excerpt/segment from the document and read, research/analyze, and discuss its meaning. Students share with the rest of the class the meaning and importance of that specific part of the Declaration.

7. Ask each group to examine the list of grievances in the Declaration. They will read each grievance and rewrite it in today's terms using dictionaries and any other resources available. They will then pick out the two most important problems.

8. Let each group share their top two picks, and then have the class vote on the number one reason why they think the colonists felt that England was violating their rights.

9. Assessment- For homework have each student read the last paragraph of the document and explain what parts of the demand would not go over very well with the King and why.

Closure

The next school day, students can turn in their opinions and discuss them as a class.

The Declaration of Independence

English Tyranny

Since the earliest English settlings in America—Roanoke Island off the coast of what is now North Carolina in 1585 and 1587; Jamestown, Virginia, the first permanent English colony in the new America in 1607; and the first permanent colony settled in New England as established by the Pilgrims (Puritan "separatists") at Plymouth in 1620—there was very little widespread English government intervention in American colonial affairs for 150 years. The English government had so little interference with the American colonies mostly because it was economically infeasible for them to bother with the mostly destitute colonists. Further, the colonists were for the most part, most of this time, governing themselves, whether by the theocracy that had been set in place in New England or by the House of Burgesses in Virginia. The Americans had had a long taste of self-rule and many became indifferent to monarchical or arbitrary rule--"Ruler's Law"--by the British.

However, with the ever-widening control of English mercantilism and the expanding production of resources of food and raw materials in the colonies, the English government developed a series of Parliamentary laws that restricted American Colonial shipping, industry, and commerce and became a major source of friction between the Colonies and England. These laws, passed between 1650 and 1775, were called the "Navigation Acts." These acts forced licensing of all ships going to or from the Colonies. There was a growing list of specific items (tobacco, cotton, sugar) that could only be sold to England and a lengthening list of other items that the colonists were not supposed to manufacture—iron, wool, molasses, and even hats.

These Navigation Acts were not seriously enforced until the end of the French and Indian War in 1763. This war left the British in deep debt, and the royal treasury attempted its recovery by clamping down on the Colonies and colonists. England established Colonial custom houses and named royally appointed judges who tried those who broke the law by disobeying the Acts. This still did not bring in enough revenue to England, but it did help unite the wealthy elite of the Colonies.

First, to thwart the westward expansion of the colonists, the English established the "Proclamation Line of 1763," supposedly to pacify the Indians west of the Allegheny Mountains

theocracy
A government in which God is regarded as the ruling power. In some of the New England colonies, the religious leaders were the political leaders (though usually the primary minister of the colony was not one).

House of Burgesses
A local representative assembly, established under a new Virginia charter in 1618 by the English government. Because conditions were so harsh in this Colony, it was difficult to attract a steady flow of labor from England. The Virginia Company (London) urged this measure to make the settlement more attractive. The first deliberations took place in July 1619.

mercantilism
Simply, complete control of the economy by the government. Further, a commercial trade policy which had the goal of creating a heavy imbalance in foreign trade, favoring exports over imports. The object was to pile up large holdings of gold in the national treasury; hence, the Navigation Acts.

Additional Reading

★ Gaustad, Edwin S. *Faith of Our Founding Fathers: Religion and the New Nation.* San Francisco: Harper & Row Publishers, 1987.

★ Martin, James Kirby, ed. *Ordinary Courage: The Revolutionary War Adventures of Joseph Plumb Martin.* St. James, New York: Brandywine Press, 1993.

★ Donald T. Phillips, *The Founding Fathers on Leadership: Classic Teamwork in Changing Times.* New York: Warner Books, 1997.

and to protect the wildlife. The British forces left in America, however, could not control such a lengthy frontier. Many colonists, especially those who already lived west of the Alleghenies, ignored this proclamation. Further Colonial grievances toward the Crown were the result of stipulations that the colonists could no longer trade with the Indians since they were under royal license. More pointedly, the British government rescinded all land purchases from the Indians west of the Alleghenies, and frontiersmen living in the Ohio River valley were required "forthwith to remove themselves." This action helped unite frontiersmen and western farmers and others wanting to move west and acquire new land.

The next series of encroachments on colonists was a succession of taxes and other political/military and economic "acts." The year after the "Proclamation," the English Parliament passed the Sugar Act (1764). This was at first only noticed by a few, the merchants, but this Act helped bring them together. With the initiation of the Stamp Act (1765) the year after, the colonists' anger flared-up beyond any previous experience. The Stamp Act affected almost all of the colonists. The tax was for a stamp to be purchased and placed on all printed materials including newspapers, journals, marriage licenses, wills, death certificates, and even the few books that were available. One reaction by colonials to the act was the formation of the "Sons of Liberty."

encroachment
Gradual or insidious intrusion or infringement upon the property or rights of another; a trespass; advancement beyond proper limits

The Stamp Act did more to unite the colonists than any other, with the possible exception of the Tea Act of 1773, which led to the famous "Boston Tea Party" initiated by the Sons of Liberty. Americans were irate that they were being taxed by their Mother Country without recourse—"no taxation without representation" became the rally-to-arms. Although the colonists had certain freedoms and a taste of representative government in some places during the previous one and a half centuries, a more formally articulated idea about a government, at least partially representative, from Benjamin Franklin's "Albany Plan" (1754) was beginning to become more plausible. Americans liked less-and-less the idea of an arbitrary monarchical "government over man." They were slowly becoming conscious of their unconscious yearnings for independence and self-rule—for "man over government."

Colonists thought other acts were trespasses as well. The Currency Act (1764) prohibited the colonists from printing their own

Colonial quotation about British forces in Boston

"But whatever may be the design of this military appearance; whatever use some persons may intend and expect to make of it: This we all know, and every child in the street is taught to know it; that while a people retain a just sense of Liberty, as blessed be God, this people yet do, the insolence of power will forever be despised."

Samuel Adams, *Boston Gazette*, 1768

money, and the Quartering Act (1764) particularly displeased the Americans, for they were then mandated to house and feed British troops in their homes and to furnish them with daily rations of ale or rum. The Declaratory Act (1766) stated that Parliament was sovereign in "all cases whatsoever," further negating any complaints that the Americans voiced. The Quebec Act of 1774 concerned the colonists in no small way because England established an authoritarian government right across their border in Canada. They thought it likely that the American Colonies could suffer the same fate.

The result of these and other grievances and the subsequent feeling of colonists was "an absolute Tyranny over these States" under King George III of Great Britain. It culminated with representatives from the various Colonies coming together to sign the Declaration of Independence on July 4, 1776, which Thomas Jefferson had been asked to pen.

mandate
To authoritatively command; an order issued by a superior

1763	French and Indian War ends Proclamation of 1763	**1771**	
		1772	
1764	Sugar Act Quartering Act Currency Act	**1773**	Tea Act "Boston Tea Party"
1765	Stamp Act Sons of Liberty organized	**1774**	Coercive (Intolerable) Acts Quebec Act First Continental Congress
1766	Declaratory Act		
		1775	Lexington and Concord "The shot heard 'round the world" Second Continental Congress
1767	Townshend Acts Taxes on imports of paper, lead, and glass		
		1776	Declaration of Independence
1768			
		1781	United States Victory at the Battle of Yorktown
1769			
1770	"Boston Massacre" Customs officials begin strict enforcement of trade laws	**1783**	Treaty of Paris
		1787	United States Constitution

Unalienable Rights

Excerpt from the Declaration of Independence:

> "We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness" (second paragraph).

What are "unalienable rights"? These rights, according to Thomas Jefferson and the Founding Fathers of the United States of America, are the rights "endowed by their creator." That is, these rights are "provided gratuitously" ("given unearned or without recompense; costing nothing; free," *Webster's New Collegiate Dictionary*) by God. In other words, these rights or "laws of nature and of nature's God" come directly from God the Creator (first paragraph). It had finally become obvious to the Founding Fathers and to many other colonists that it was up to man to *give his consent* to be ruled and also to be willing to give up *a portion* of his God-given natural rights for the sake of order and security in the larger society.

The American Founders relied heavily on a substantially rich heritage of British political thought and law to further their ultimate aim of independence—notably influenced by Sir William Blackstone, John Locke, John Trenchard, Thomas Gordon, the Scotsman Adam Smith, and others.

Nothing like Blackstone's (1723-80) *Commentaries on the Laws of England* (1765-71) had ever appeared in English before, and little has since. Americans used these English *Commentaries* as a basis for some of their own political arguments:

> "This law of nature, being co-eval with mankind and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, and all countries, and at all times: no human laws are of any validity if contrary to this; and such of them as are valid derive all their force, and all their authority, mediately or immediately from this original" (William S. Clough, ed., *Intellectual Origins of American National Thought*, Corinth Books, New York, 1955, p 235).

This clause makes an especially strong claim: All man-made laws must reflect natural law and be in accord with it in order to be valid and have the force of law. In other words, for laws to be valid, they must be in accord with the "nature of things." Otherwise, the law would be an attempt to change the very nature of things.

John Locke (1632-1704) looms above all others in his impact upon the Founding Fathers. His *Second Treatise on Civil Government* (1689) may well be the most influential book on political theory ever written, explaining "natural law":

> "To understand political power right, and derive it from the original, we must consider, what state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions, and

persons [themselves], as they think fit within the bounds of the law of nature, without asking leave, or depending upon the will of any other man" (Paragraph 4, Chapter II, "Of the State of Nature").

Trenchard and Gordon's major contributions occurred primarily in the first half of the eighteenth century. An American edition of their work appeared in New York in 1724 and another in 1740. Here is another explanation of unalienable rights:

> "All men are born free; Liberty is a Gift which they receive from God; nor can they alienate the same by Consent, though possibly they may forfeit it by Crimes . . . " (Quoted in David L. Jacobson, ed., *The English Libertarian Heritage*, Bobbs-Merrill, Indianapolis, 1965, p xvii).

Traditional American political philosophy, freely borrowing from the British, teaches that the individual man is endowed at birth with rights which are unalienable because given by his Creator.

The concept of man's rights being unalienable is based solely upon belief in their Divine origin. Lacking this belief, there is no moral basis for any claim that these rights are unalienable or for any claim to the great benefits flowing from this concept. God-given rights, sometimes called natural rights, are possessed by the individual man under the law of nature, meaning under the laws of God's Creation and therefore the gift of God. Man does not have the power to alienate or dispose of, by surrender or consent, his God-given rights, according to this American political philosophy.

Colonial quotations about unalienable rights

"The God who gave us life gave us liberty at the same time; the hand of force may destroy, but cannot disjoin them."

Thomas Jefferson, "Rights of British America," 1774

" . . . as all men by nature are free . . . that no man can be deprived of liberty, and subjected to perpetual bondage and servitude, unless he has forfeited his liberty as a malefactor . . . ."

Town-meeting Resolution, Pittsfield, Massachusetts, 1779

"All eyes are opened, or opening, to the rights of man. The general spread of the light of science has already laid open to every view of the palpable truth, that the mass of mankind has not been born with saddles on their backs, nor a favored few booted and spurred, ready to ride them legitimately, by the grace of God."

Thomas Jefferson, Letter to R.C. Weightman, June 24, 1826

"Government is founded immediately on the necessities of human nature, and ultimately on the will of God, the author of nature, who has not left it to man in general to choose, whether they will be members of a society or not, but at the hazard of their senses if not of their lives. Yet it is left to every man as he comes of age to choose what society he will continue to belong to" (Max Beloff, ed., *The Debate on the American Revolution: 1761-1783*, Sheridan House, Dobbs Ferry, New York, 1989, p 57).

James Otis, *The Rights of the British Colonies Asserted and Proved*, Boston, July 1764

Earlier Colonial "Plans for Union"

A variety of "plans for union" emerged as early as 1697, three-quarters of a century before the Declaration of Independence. Probably the earliest "Plan for Union" for the English Colonies in America was written in 1697 by William Penn, the Quaker founder of Pennsylvania. Although this was a "call for union," it was not to incite separation or independence from England. To the contrary, it was a call to union so as the Colonies could "be more useful to the crown and one another's peace and safety with an universal concurrence" (Commager, pp 39-40).

"The Albany Plan of Union" penned by Benjamin Franklin in 1754 was another matter. This call for union pointed toward resolution of the antagonisms brought about by the British Empire, particularly by the Navigation Acts. Already the germs of ideas concerning "rule by law" or "man over government" had been spawned. The idea of "government over man" or "Ruler's Law" was slowly becoming distasteful to the Americans. But it was still too early, as reflected in the reservations of early proposals, for major changes in government:

> "It is *proposed* that *humble application* be made *for an act of Parliament* of Great Britain, by virtue of which one general government may be formed in America, including all the said colonies, within and under which each government *may retain* its present constitution . . . .
> 1. That the said general government be administered by a President-General, to be *appointed and supported by the crown*; and a Grand Council, to be chosen by representatives of the people of the several Colonies met in their respective assemblies" (Commager, 43-45). (italics added)

Although this Plan was rejected by the colonists, one can easily see that it was not yet even close to a true call for separation or independence. It seemed, in fact, like almost a groveling in its "humble application." Why would the Parliament, representing "King's Rule" or "Ruler's Law," intentionally give up any of its power to any form of representative government wherein the custom would be for "self-rule" or "man over government"? It would not—and it did not.

On September 28, 1774, a proposal, supposedly to resolve the continuing problem of home rule, was raised at the Continental Congress gathered in Philadelphia to coordinate Colonial actions against the Crown. "Galloway's Plan of Union" was a carefully worked out "plan" between England and her angry Colonies. Joseph Galloway, who most agreed was an ardent "friend of liberty," came up with something so similar to Franklin's Albany Plan from twenty years earlier that he had likely read and copied from it. Galloway called for a "royally appointed President-General" and a Colonial legislature empowered with "all rights, liberties and privileges of Parliament." It was defeated in the Congress by only one vote. Apparently, as late as the Continental Congress meeting in September 1774, there was still quite a contingency of colonials that were not yet ready to abandon England for full independence. Eventually Galloway fled America for England following the Philadelphia campaign. Because he thought the Revolution was treasonous, he chose to fight alongside the British.

In reality, the real "plan of union" was the Continental Congress itself, not a document. Representatives, each chosen by their respective Colonies, came together to somehow address grievances against the English Crown. And following Galloway's Plan, the next step closer

to the Declaration of Independence was taken during the same Continental Congress only two weeks later.

The four Coercive Acts, or Intolerable Acts as they were called by the colonists, which were passed by Parliament following the Boston Tea Party, were finally taking their toll on the Americans. The Crown sought to punish and humiliate the Colonies, but the Acts backfired. The Acts further united the colonists in common defense of their liberties. The "Declaration and Resolves of the First Continental Congress," on October 14, 1774, claimed:

> "That the inhabitants of the English Colonies in North America, by the immutable laws of nature, the principles of the English constitution, and in the several charters or compacts, have the following Rights:
> Resolved,
> 1. That they are entitled to life, liberty, and property, & *they have never ceded to any sovereign power whatever*, a right to dispose of either without their consent (Commager, pp. 82-4). (italics added)

Within sixteen days during the Continental Congress, the rhetoric of the American colonists changed dramatically. With their new language the colonists claimed that they had never consented to give up their natural rights, in effect reclaiming the rule which the Crown assumed under its authority. There were nine other claims and further accusations:

> "*Resolved*, that the following acts of Parliament are infringements and violations of the rights of the colonists; and that the repeal of them is essentially necessary, in order to restore harmony between Great Britain and the American colonies, . . ." (Commager, p. 84). (italics in the original)

This new determination and sense of purpose resulted in not only the reclamation of their sovereignty but the stipulation of the terms of peace.

Furthermore, on September 27, 1774, the Continental Congress voted "non-intercourse" with Great Britain, halting all commerce. Three days later, a committee was formed to consider a plan of action. The committee offered its suggestions twelve days later on October 12. A resolution was adopted on October 18 and signed on October 20. It read: "The signature of the Association may be considered as the commencement of the American Union."

The Battle of Lexington and Concord was the opening skirmish of the American Revolution (1775-83). An anonymous pistol-shot rang out on April 19, 1775, and unceremoniously "the shot heard 'round the world" began the American Revolutionary War. It was not until the War was more than a year old that Thomas Jefferson was commissioned to write the first draft of a Declaration of Independence, a radical departure from earlier colonial "Plans for Union."

In Congress, July 4, 1776
the Unanimous Declaration
of the Thirteen
United States of America

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it and to institute new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of , and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws, giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us;

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states;

For cutting off our trade with all parts of the world;

For imposing taxes on us without our consent;

For depriving us, in many cases, of the benefits of trial by jury;

For transporting us beyond seas to be tried for pretended offenses;

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies;

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments;

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection and waging war against us.

He has plundered our seas, ravaged our coasts, burned our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens taken captive on the high seas to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: Our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties our common kindred to disavow these usurpations which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the Representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare, That these United Colonies are, and of right out to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain, is and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

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humble terms: Our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant is unfit to be the ruler of a free people.

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these colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain, is and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

★ Federalist 47 ★

Purpose

The purpose of this lesson is for students to examine the propaganda used to present two opposing viewpoints during the ratification of the Constitution.

Objective

1. The student will analyze and summarize the Federalist arguments for the ratification of the Constitution using the Federalist Papers # 47, 48, 49, or 50.
2. The student will analyze and summarize the Anti-Federalist arguments against the ratification of the Constitution using the writings of Agrippa, the Federal Farmer, and Cato.

Theme-Responsibility

Federalist Paper Number 47 discusses the importance of the three branches of government and the responsibility each has to protect their area of authority. This mutually exclusive responsibility is an important element in the checks and balances system.

NCSS Standards

IIc. identify and describe significant historical periods and patterns of change within and across cultures....
IIe. investigate, interpret, and analyze multiple historical and contemporary viewpoints within and across cultures....
VIa. examine persistent issues involving the rights, roles, and status of the individual in relation to the general welfare.
VIc. analyze and explain ideas and mechanisms to meet needs and wants of citizens, regulate territory, manage conflict, establish order and security, and balance competing conceptions of a just society.
Xc. locate, access, analyze, organize, synthesize, evaluate, and apply information about selected public issues--identifying, describing, and evaluating multiple points of view.
Xg. evaluate the effectiveness of public opinion in influencing and shaping public policy development and decisionp-making.

Time

60 minutes (up to 3 days)

Materials

- ★ Dictionaries
- ★ Federalist Papers (Numbers 47-50)
- ★ Anti-Federalist readings from Agrippa, Federal Farmer and Cato (see www.constitution.org/cs_found.htm for related documents)
- ★ Articles from local newspapers and national magazines

Preparation

- ★ Copy handouts
- ★ Gather supplies (as needed).

Focus

Ask students to decide on a policy for a specific issue like the wearing of identification badges, a school dress code, a minimum smoking age, driving permits, etc. (something you know they will not be able to agree on). Have the class debate the issue for 20 minutes and at the end of that time everyone will vote on a secret ballot. (Have students use scratch paper--no names.) Count up the ballots and then have the students try to figure out why they could not get everyone to agree. Then ask the students to figure out what these terms mean: Majority, Simple Majority, Quorum, and Unanimous.

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Activity

1. Tell the Students about the Constitutional Convention and how it worked. State representatives gathered in Philadelphia to discuss changes needed in the Articles of Confederation. Each state received one vote. When an issue was voted on, regardless of whether it either passed or failed, it could be brought back for more debate.
2. Next, explain that after the Constitution was written and agreed upon by the representatives, each state had to ratify it. In an effort to convince the voters of each state, a series of letters was written to the editors of nearly every newspaper in the 13 states. These letters were written under the pseudonym *Publius*, an ancient Roman Senator and model citizen. Of course several other people wrote in support of and in complaint against these letters. They too were written under pseudonyms such at *Cato, Federal Farmer,* and *Agrippa*. Most people chose names of honorable Roman citizens, politicians, and scholars.
3. Pass out Federalist handout. Divide the class into small groups of 4 or 5, asking each group to read the handout and annotate it. Beside each paragraph, students will make notes regarding the ideas and issues presented and jot questions, keeping comments limited to the space available on the handout. As groups work, circulate among the groups to help determine definitions and meanings. As the class winds down ask some leading questions about the authors or the need for false names, etc. Require students to finish the annotation for homework.
4. Students individually or in groups may take cut-out segments of the document and analyze/research and discuss their specific terms and meanings. Students may share their analyses with the rest of the group/class.
5. Day Two: Ask students to review their notes and question their ideas and thoughts. Point out how different their notes are from those of other students. Remind them again how hard it was for them to reach a unanimous group/class decision on one simple issue as compared to what colonists 212 + years ago were fighting to accomplish.
6. Next, give half the class a copy of the Federalist paper and the other half the Anti-Federalist paper. Read each one silently or aloud in two separate groups. As the students read, ask them to make notes in one color ink of points that are positives or pluses for the writer's arguments. In a second color, write out what some people may argue against the writer's ideas and plans. Let each half of the class compare notes and discuss whether they like the author's point-of-view, ideas, and/or goal of a defined government and what role each citizen plays in that government.
7. Let each half of the class discuss and eventually debate their articles. As a teacher, monitor and facilitate discussion. Start the activity off by asking a student from each side to summarize his or her article. Then begin asking leading questions of each group. Encourage the students to start formulating their own questions.
8. Day Three: Pass out copies of the political sections of several issues of newspapers and magazines like *Time*, *U.S. News and World Report*, and *Newsweek*. Ask students to read or skim through as many articles as they can in 15-20 minutes. Evaluate the U.S. government's response to those issues. Were the Anti-Federalists correct to worry about the far-reaching effects of a strong central government? Do the checks and balances proposed by the Federalists guarantee a fair and unified Constitution and government? As a class spend some time debriefing what the articles say and defend.

Federalist 47

Purpose

The Federalist papers were written by Alexander Hamilton, James Madison, and John Jay to promote ratification of the U.S. Constitution. They first appeared in New York newspapers during 1787 and 1788. These 85 essays helped win ratification by the necessary nine states by June 1788 and by all thirteen states by May 1790.

History

The Articles of Confederation, the first American constitution, was more a "league of friendship" among independent nations than a true act of union among the several states. True, many will claim the Articles a dismal failure. But if it was looked upon as an interim regime, the government of the Articles had considerable success. Congress provided national direction for the waging of the Revolutionary War, established peace, passed the Northwest Ordinances, and developed precedents and influence for the making of the Constitution of 1787.

On the other hand, the government established by the Articles was too flawed to be permanent. Because of the fear of tyranny, all power was held by the individual states so that the citizenry would be over government—to ensure that the power of government lay in the hands of citizens—except those few powers *relinquished to* the government.

As a result, a consensus of all 13 states was required for any alteration of the Articles, and no chief executive or judiciary existed, only the representative legislature (Congress). These conditions greatly hindered the government. Additionally, the Congress had no power over the civilian population, and those powers relinquished to the legislature still required a three-fourths majority of states. Further, disputes between states could not be resolved satisfactorily while total sovereignty remained with the states: states could not be compelled to pay taxes to support the cost of government, including the cost of the Revolution; no permanent U.S. Capitol could be established; no power or money existed to raise an army or navy (as Shays' Rebellion revealed); and since each state had its own specie of money, they could not settle disputes regarding the western lands.

The Confederation grew weaker. Goaded by the inadequacies of the Articles of Confederation, Congress called for

ratification
Formal approval to; made officially valid; confirmed

interim regime
Temporary government or administration

Northwest Ordinances
Three Ordinances adopted to decide questions about the Western lands:

- **Ordinance of 1784** Divided the Western lands into districts and outlined the first prerequisites for statehood;
- **Ordinance of 1785** Provided for surveying and sale of new lands; and,
- **Ordinance of 1787** Created the Northwest Territory, which prohibited slavery.

Shays' Rebellion
An uprising in 1786-87 in western Massachusetts by debt-burdened farmers, led by Daniel Shays. This strengthened the idea for a stronger central government, as the government under the Confederation had neither the power nor the money to raise an army to stop Shays.

sovereignty
Supremacy of authority or rule

Additional Reading

★ Bradford, M. E.. ***Original Intentions: On the Making and Ratification of the United States Constitution.*** Athens: University of Georgia Press, 1993.

★ Eidsmore, John. ***Christianity and the Constitution: The Faith of the Founding Fathers.*** Grand Rapids, MI: Baker Books, 1987.

★ Levy, Leonard W., ed. ***Essays on the Making of the Constitution.*** New York: Oxford University Press, 1987.

delegates to Philadelphia's Independence Hall to amend the Articles. Work began immediately, on May 25, 1787, to write a totally new Constitution. There were impassioned political battles, primarily over representation. Finally, on September 17, 1787, the work of the convention came to an end.

The new Constitution still needed to be ratified by the states but now only by nine rather than by all thirteen of them. The Federalists Hamilton, Madison, and Jay, with the support and prestige of such men as Washington and Franklin, wrote articles to be published in newspapers that would eventually be collected under the title *The Federalist*. These were written to persuade a wary public of the need to ratify the newly drafted U.S. Constitution. On May 29, 1790, the thirteenth and last of the states, Rhode Island, voted to ratify the new Constitution.

The Federalist Number 47 — James Madison

Federalist 47 describes the particular structure of the new government and the distribution of power among its different parts:

> "The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny" (third paragraph).

This statement encapsulates the intense fear that many Americans had for government. Any government, they suspected, without a well-defined "separation of powers" and "checks and balances," could coerce the people. They dreaded an unrestrained centralized government—a government that would undoubtedly become tyrannical, ruling arbitrarily and without the consent of the people. The citizens of this new young United States of America had already experienced despotism under the monarchical rule of England. These same citizens had fought a war so that man was over government and not government over man.

Americans demanded the freedom to choose and the absence of coercion and did not want to be "swallowed up by the states." "What emerged from this discussion was a clear delineation of the federal balance [among the executive, legislative, and judicial branches] explaining the state and national jurisdictions and the

tyranny
A government in which a single ruler is vested with absolute power, especially when exercised unjustly, severely, cruelly, or arbitrarily

coerce
To force to act or think in a given manner by pressure, threats, or intimidation; to compel; to bring about by force

despotism
The rule by an absolute power or authority; tyranny; oppression

monarchical
Of, pertaining to, characteristic of, or ruled by a sole and absolute ruler of the state, usually a hereditary sovereign such as a king or emperor

relationships between them. It was to be a system of *dual sovereignties*, each with its appropriate powers and field of action" (M. Stanton Evans, *The Theme Is Freedom: Religion, Politics, and the American Tradition,* Regnery Publishing, Inc., Washington, D.C., 1994, pp. 263-64). Although giving up a portion of state powers to the federal government, with the appropriate balance of power, the Federalists argued, Americans would be safe from tyranny. This balance of power was defined by the Constitution as each branch was designed to help restrain the other branches from any violation of the Constitution—hence, "checks and balances."

To convince the delegates at state conventions to ratify promptly, the Constitution's three prime supporters—Alexander Hamilton, James Madison, and John Jay—joined together in publishing 85 essays, under the pseudonym "Publius" (after the legendary Roman emperor and defender of the Republic, Publius Valerius), which defended the Constitution and argued for its speedy ratification.

Thus, "the method of establishing and tightly controlling power through conventions, the written Constitution, federalism, the doctrine of 'enumerated power,' and other techniques for limiting all authority whatsoever" had been created and instituted (Evans, p. 311). This work became a reality on June 21, 1788, when New Hampshire—the ninth state to do so—ratified the U.S. Constitution and it became the law of the land. The *people had consented* to give limited power to the new federal government.

Constitutional Era / Founding Father Quotations Supporting Separation of Powers

"The use of checks and balances in the forms of government, is to create delays and multiply diversities of interests, by which the tendency on a sudden to violate them may be counteracted."

John Adams, "On Government," 1778

"But there is a Degree of Watchfulness over all Men possessed of Power or Influence upon which the Liberties of mankind much depend. It is necessary to guard against the Infirmities of the best as well as the Wickedness of the worst of Men. Such is the Weakness of human Nature that Tyranny has oftener sprang from that than any other Source. It is this that unravels the Mystery of Millions being enslaved by a few." (Original capitalizations)

Samuel Adams, Letter to Elbridge Gerry, 1784

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Federalist Authorship Notes

"The task for the *Federalist* authors was marked out for them the day the new Constitution for the United States was made known to the people of New York State. On the same day it was published, and immediately beside it in the papers, appeared an attack upon the Constitution, signed by Cato who was known to be Governor Clinton. Thereafter, many of the most powerful figures in New York political life, writing under the name of renowned Romans, came out in opposition to the new instrument of government" (*Great Books of the Western World*, Robert Maynard Hutchins, Editor in Chief, The University of Chicago, 1952, Vol. 43, p. 23).

Alexander Hamilton, under the pseudonym Caesar, responded bitterly and personally to answer Clinton. After two articles, Hamilton was persuaded that this tactic would not help in the ratification of the Constitution. He relinquished this tactic and began a new approach, arguing directly in favor of the ratification. James Madison and John Jay almost immediately joined with Hamilton in writing well-reasoned arguments for the adoption of the new Constitution.

Each author was a specialist in his field: Hamilton wrote 50 essays emphasizing economic and other financial issues and argued persuasively for a strong central executive (a president); Madison wrote 30 articles focused on political theory, arguing that Federal power, rather than oppressing the people, would prevent self-seekers from imposing their will and wishes on all; and Jay offered 5 essays on foreign affairs.

Biographical Notes

Alexander Hamilton **1755-1804, U.S. statesman; born in the West Indies**

Hamilton emigrated to New York in 1772 to further his studies. Within two years, he was in the thick of the Revolutionary turmoil and wrote pamphlets advocating the grievances of the patriots against the crown. In the American Revolution, he was General Washington's aide and private secretary for four years (1777-81) until he took over a field command.

Following the war, he concentrated on his law practice. Within a few years, Hamilton was among the slowly growing movement for a strong national government. As a delegate to the Annapolis Convention (1786), he took the lead in calling for a Constitutional Convention. Although Hamilton thought the new Constitution "puny," he realized that it was a much needed improvement over the Articles of Confederation. He was soon writing pamphlets as "Publius."

After the first inauguration, Hamilton was once again working with Washington, now President, in his cabinet as Secretary of the Treasury. A bitterness arose between Hamilton, a Federalist, and Thomas Jefferson, Secretary of State, who was devoted to the principles of rural democracy. From their disputes arose two factions which formed the first two political parties—Hamilton's own Federalist Party and Jefferson's Anti-Federalists, later the Democratic-Republican Party. As Secretary of the Treasury, Hamilton created the basis of the U.S. fiscal system, secured the Nation's credit and increased the power of the federal government.

In the presidential election of 1801, Jefferson was tied in the Electoral College with Aaron Burr. Hamilton, though he loathed Jefferson's democratic principles, feared Burr's lack of principles even more. Thus, with Hamilton's support, Jefferson was elected President; Burr became Vice President. In 1804, when Burr ran for the governorship of New York, Hamilton once again stepped in and crushed his hopes. Burr sought revenge and challenged Hamilton to a duel. On the morning of July 11, 1804, the two men met in a field in Weehawken, New Jersey. Each fired a shot; Burr's struck his opponent, and Hamilton lay mortally wounded in the mud. Hamilton died the next day.

James Madison **1751-1836, 4th president of the U.S. (1809-17); born in Port Conway, Virginia**

An early opponent of British colonial measures, Madison helped draft the Constitution for the new state of Virginia (1776), served in the Continental Congress (1780-83 and 1787), and was a member of the Virginia legislature (1784-86). He was active in the call for the Annapolis Convention (1786), and his contributions at the Federal Constitutional Convention (1787) earned him the title "master builder of the Constitution." A principal contributor to the Federalist papers, he was largely responsible for securing ratification of the Constitution in Virginia. As a congressman from Virginia (1789-97), Madison was a strong advocate of the Bill of Rights. A steadfast enemy of the financial measures of Alexander Hamilton, he was a leading Jeffersonian.

After Jefferson triumphed in the presidential election of 1800, Madison became his Secretary of State. He succeeded Jefferson as president in 1809. The unpopular and unsuccessful War of 1812, known disparagingly as "Mr. Madison's War," was the chief event of his administration. National expansion began during his term in office.

Retiring in 1817, he lived quietly with his wife, Dolley Madison. She married Madison in 1794 (her first husband had died in 1793). As official White House hostess for Thomas Jefferson (who was a widower) and for her husband, she was noted for the magnificence of her entertainments, as well as for her charm, tact, and grace.

John Jay **1745-1829, American statesman, the first Chief Justice of the United States (1789-95); born in New York City**

Born into a wealthy and prestigious family, John Jay grew into manhood believing that the monied classes represented the only safe repository of power. He said, "Those who own the country ought to govern it." He first feared that independence for the Colonies would lead to mob rule and chaos, but he slowly became a leader of the Revolution.

Later, as a lawyer, he guided the drafting of the New York State constitution. Jay was president of the Continental Congress (1778-79) and one of the commissioners who negotiated peace with Great Britain (1781-83). As secretary of foreign affairs (1784-89), he advocated a strong central government. During Jay's tenure as Chief Justice, he was sent on a mission to England where he negotiated what became known as "Jay's Treaty" (1794). Although the pact prevented war, he was violently criticized for its concessions to the British.

Jay resigned from the Supreme Court in 1795 when he was elected governor of New York, a position he held until 1801. While in that office he signed the act ending slavery in that state. Upon leaving the governorship, Jay retired to his farm in Bedford, New York, and remained a private citizen until his death in 1829.

Federalist No. 47 James Madison January 30, 1788

To the People of the State of New York.

Having reviewed the general form of the proposed government, and the general mass of power allotted to it: I proceed to examine the particular structure of this government, and the distribution of this mass of power among its constituent parts.

One of the principal objections inculcated by the more respectable adversaries to the constitution, is its supposed violation of the political maxim, that the legislative, executive and judiciary departments ought to be separate and distinct. In the structure of the federal government, no regard, it is said, seems to have been paid to this essential precaution in favor of liberty. The several departments of power are distributed and blended in such a manner, as at once to destroy all symmetry and beauty of form; and to expose some of the essential parts of the edifice to the danger of being crushed by the disproportionate weight of other parts.

No political truth is certainly of greater intrinsic value or is stamped with the authority of more enlightened patrons of liberty than that on which the objection is founded. The accumulation of all powers legislative, executive and judiciary in the same hands, whether of one, a few or many, and whether hereditary, self appointed, or elective, may justly be pronounced the very definition of tyranny. Were the federal constitution therefore really chargeable with this accumulation of power or with a mixture of powers having a dangerous tendency to such an accumulation, no further arguments would be necessary to inspire a universal reprobation of the system. I persuade myself however, that it will be made apparent to every one, that the charge cannot be supported, and that the maxim on which it relies, has been totally misconceived and misapplied. In order to form correct ideas on this important subject, it will be proper to investigate the sense, in which the preservation of liberty requires, that the three great departments of power should be separate and distinct.

The oracle who is always consulted and cited on this subject, is the celebrated Montesquieu. If he be not the author of this invaluable precept in the science of politics, he has the merit at least of displaying, and recommending it most effectually to the attention of mankind. Let us endeavour in the first place to ascertain his meaning on this point.

The British constitution was to Montesquieu, what Homer has been to the didactic writers on epic poetry. As the latter have considered the work of the immortal Bard, as the perfect model from which the principles and rules of the epic art were to be drawn, and by which all similar works were to be judged; so this great political critic appears to have viewed the constitution of England, as the standard, or to use his own expression, as the mirrour of political liberty; and to have delivered in the form of elementary truths, the several characteristic principles of that particular system. That we may be sure then not to mistake his meaning in this case, let us recur to the source from which the maxim was drawn.

On the slightest view of the British constitution we must perceive, that the legislative, executive and judiciary departments are by no means totally separate and

distinct from each other. The executive magistrate forms an integral part of the legislative authority. He alone has the prerogative of making treaties with foreign sovereigns, which when made have, under certain limitations, the force of legislative acts. All the members of the judiciary department are appointed by him; can be removed by him on the address of the two Houses of Parliament, and form, when he pleases to consult them, one of his constitutional councils. One branch of the legislative department forms also, a great constitutional council to the executive chief; as on another hand, it is the sole depositary of judicial power in cases of impeachment, and is invested with the supreme appellate jurisdiction, in all other cases. The judges again are so far connected with the legislative department, as often to attend and participate in its deliberations, though not admitted to a legislative vote.

From these facts by which Montesquieu was guided it may clearly be inferred, that in saying "there can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates," or "if the power of judging be not separated from the legislative and executive powers," he did not mean that these departments ought to have no *partial agency* in, or no *controul* over the acts of each other. His meaning, as his own words import, and still more conclusively as illustrated by the example in his eye, can amount to no more than this, that where the *whole* power of one department is exercised by the same hands which possess the *whole* power of another department, the fundamental principles of a free constitution, are subverted. This would have been the case in the constitution examined by him, if the King who is the sole executive magistrate, had possessed also the compleat legislative power, or the supreme administration of justice; or if the entire legislative body, had possessed the supreme judiciary, or the supreme executive authority. This however is not among the vices of that constitution. The magistrate in whom the whole executive power resides cannot of himself make a law, though he can put a negative on every law, nor administer justice in person, though he has the appointment of those who do administer it. The judges can exercise no executive prerogative, though they are shoots from the executive stock, nor any legislative function, though they may be advised with by the legislative councils. The entire legislature, can perform no judiciary act, though by the joint act of two of its branches, the judges may be removed from their offices; and though one of its branches is possessed of the judicial power in the last resort. The entire legislature again can exercise no executive prerogative, though one of its branches constitutes the supreme executive magistracy; and another, on the impeachment of a third, can try and condemn all the subordinate officers in the executive department.

The reasons on which Montesquieu grounds his maxim are a further demonstration of his meaning. "When the legislative and executive powers are united in the same person or body" says he, "there can be no liberty, because apprehensions may arise lest *the same* monarch or senate should *enact* tyrannical laws, to *execute* them in a tyrannical manner." Again "Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary controul, for *the judge* would then be *the legislator*. Were it joined to the executive power, *the judge* might behave with all the violence of *an oppressor*." Some of these reasons are more fully explained in other passages; but briefly stated as they are here, they sufficiently establish the meaning which we have put on this celebrated maxim of this celebrated author.

If we look into the constitutions of the several states we find that notwithstanding the emphatical, and in some instances, the unqualified terms in which this axiom has been laid down, there is not a single instance in which the several departments of power have been kept absolutely separate and distinct. New-Hampshire, whose constitution was the last formed, seems to have been fully aware of the impossibility and inexpediency of avoiding any mixture whatever of these departments; and has qualified the doctrine by declaring "that the legislative, executive and judiciary powers ought to be kept as separate from, and independent of each other *as the nature of a free government will admit; or as is consistent with that chain of connection, that binds the whole fabric of the constitution in one indissoluble bond of unity and amity.*" Her constitution accordingly mixes these departments in several respects. The senate which is a branch of the legislative department is also a judicial tribunal for the trial of empeachments. The president who is the head of the executive department, is the presiding member also of the senate; and besides an equal vote in all cases, has a casting vote in case of a tie. The executive head is himself eventually elective every year by the legislative department; and his council is every year chosen by and from the members of the same department. Several of the officers of state are also appointed by the legislature. And the members of the judiciary department are appointed by the executive department.

The constitution of Massachusetts has observed a sufficient though less pointed caution in expressing this fundamental article of liberty. It declares "that the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them." This declaration corresponds precisely with the doctrine of Montesquieu as it has been explained, and is not in a single point violated by the plan of the Convention. It goes no farther than to prohibit any one of the entire departments from exercising the powers of another department. In the very constitution to which it is prefixed, a partial mixture of powers has been admitted. The Executive Magistrate has a qualified negative on the Legislative body; and the Senate, which is a part of the Legislature, is a court of impeachment for members both of the executive and judiciary departments. The members of the judiciary department again are appointable by the executive department, and removable by the same authority, on the address of the two legislative branches. Lastly, a number of the officers of government are annually appointed by the legislative department. As the appointment to offices, particularly executive offices, is in its nature an executive function, the compilers of the Constitution have in this last point at least, violated the rule established by themselves.

I pass over the constitutions of Rhode-Island and Connecticut, because they were formed prior to the revolution; and even before the principle under examination had become an object of political attention.

The constitution of New-York contains no declaration on this subject; but appears very clearly to have been framed with an eye to the danger of improperly blending the different departments. It gives nevertheless to the executive magistrate a partial controul over the legislative department; and what is more, gives a like controul to the judiciary department, and even blends the executive and judiciary departments in the exercise of this controul. In its council of appointment, members of the legislative are associated

with the executive authority in the appointment of officers both executive and judiciary. And its court for the trial of impeachments and correction of errors, is to consist of one branch of the legislature and the principal members of the judiciary department.

The constitution of New-Jersey has blended the different powers of government more than any of the preceding. The governor, who is the executive magistrate, is appointed by the legislature; is chancellor and ordinary or surrogate of the state; is a member of the supreme court of appeals, and president with a casting vote, of one of the legislative branches. The same legislative branch acts again as executive council to the governor, and with him constitutes the court of appeals. The members of the judiciary department are appointed by the legislative department, and removable by one branch of it, on the impeachment of the other.

According to the constitution of Pennsylvania, the president, who is head of the executive department, is annually elected by a vote in which the legislative department predominates. In conjunction with an executive council, he appoints the members of the judiciary department, and forms a court of impeachments for trial of all officers, judiciary as well as executive. The judges of the supreme court, and justices of the peace, seem also to be removeable by the legislature; and the executive power of pardoning in certain cases to be referred to the same department. The members of the executive council are made EX OFFICIO justices of peace throughout the state.

In Delaware, the chief executive magistrate is annually elected by the legislative department. The speakers of the two legislative branches are vice-presidents in the executive department. The executive chief, with six others, appointed three by each of the legislative branches, constitute the supreme court of appeals: He is joined with the legislative department in the appointment of the other judges. Throughout the states it appears that the members of the legislature may at the same time be justices of the peace. In this state, the members of one branch of it are EX OFFICIO justices of peace; as are also the members of the executive council. The principal officers of the executive department are appointed by the legislative; and one branch of the latter forms a court of impeachments. All officers may be removed on address of the legislature.

Maryland has adopted the maxim in the most unqualified terms; declaring that the legislative, executive and judicial powers of government, ought to be forever separate and distinct from each other. Her constitution, notwithstanding makes the executive magistrate appointable by the legislative department; and the members of the judiciary, by the executive department.

The language of Virginia is still more pointed on this subject. Her constitution declares, "that the legislative, executive and judiciary departments, shall be separate and distinct; so that neither exercise the powers properly belonging to the other; nor shall any person exercise the powers of more than one of them at the same time; except that the justices of the county courts shall be eligible to either house of assembly." Yet we find not only this express exception, with respect to the members of the inferior courts; but that the chief magistrate with his executive council are appointable by the legislature; that two members of the latter are triennially displaced at the pleasure of the legislature; and that all the principal offices, both executive and judiciary, are filled by the same department. The executive prerogative of pardon, also is in one case vested in the legislative department.

The constitution of North-Carolina, which declares, "that the legislative, executive and supreme judicial powers of government, ought to be forever separate and distinct from each other," refers at the same time to the legislative department, the appointment not only of the executive chief, but all the principal officers within both that and the judiciary department.

In South-Carolina, the constitution makes the executive magistracy eligible by the legislative department. It gives to the latter also the appointment of the members of the judiciary department, including even justices of the peace and sheriffs; and the appointment of officers in the executive department, down to captains in the army and navy of the state.

In the constitution of Georgia, where it is declared, "that the legislative, executive and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other." We find that the executive department is to be filled by appointments of the legislature; and the executive prerogative of pardon, to be finally exercised by the same authority. Even justices of the peace are to be appointed by the legislature.

In citing these cases in which the legislative, executive and judiciary departments, have not been kept totally separate and distinct, I wish not to be regarded as an advocate for the particular organizations of the several state governments. I am fully aware that among the many excellent principles which they exemplify, they carry strong marks of the haste, and still stronger of the inexperience, under which they were framed. It is but too obvious that in some instances, the fundamental principle under consideration has been violated by too great a mixture, and even an actual consolidation of the different powers; and that in no instance has a competent provision been made for maintaining in practice the separation delineated on paper. What I have wished to evince is, that the charge brought against the proposed constitution, of violating a sacred maxim of free government, is warranted neither by the real meaning annexed to that maxim by its author; nor by the sense in which it has hitherto been understood in America. This interesting subject will be resumed in the ensuing paper.

Publius

Federalist No. 47 James Madison January 30, 1788

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Text Analysis

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The British constitution was to Montesquieu, what Homer has been to the didactic writers on epic poetry. As the latter have considered the work of the immortal Bard, as the perfect model from which the principles and rules of the epic art were to be drawn, and by which all similar works were to be judged; so this great political critic appears to have viewed the constitution of England, as the standard, or to use his own expression, as the mirrour of political liberty; and to have delivered in the form of elementary truths, the several characteristic principles of that particular system. That we may be sure then not to mistake his meaning in this case, let us recur to the source from which the maxim was drawn.

On the slightest view of the British constitution we must perceive, that the legislative, executive and judiciary departments are by no means totally separate and distinct from each other. The executive magistrate forms an integral part of the legislative authority. He alone has the prerogative of making treaties with foreign sovereigns, which when made have, under certain limitations, the force of legislative acts. All the members of the judiciary department are appointed by him; can be removed by him on the address of the two Houses of Parliament, and form, when he pleases to consult them, one of his constitutional councils. One branch of the legislative department forms also, a great constitutional council to the executive chief; as on another hand, it is the sole depositary of judicial power in cases of impeachment, and is invested with the supreme appellate jurisdiction, in all other cases. The judges again are so far connected with the legislative department, as often to attend and participate in its deliberations, though not admitted to a legislative vote.

From these facts by which Montesquieu was guided it may clearly be inferred, that in saying "there can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates," or "if the power of judging be not separated from the legislative and executive powers," he did not mean that these departments ought to have no *partial agency* in, or no *controul* over the acts of each other. His meaning, as his own words import, and still more conclusively as illustrated by the example in his eye, can amount to no more than this, that where the *whole* power of one department is exercised by the same hands which possess the *whole* power of another department, the fundamental principles of a free constitution, are subverted. This would have been the case in the constitution examined by him, if the King who is the sole executive magistrate, had possessed also the compleat legislative power, or the supreme administration of justice; or if the entire legislative body, had possessed the supreme judiciary, or the supreme executive authority. This however is not among the vices of that constitution.

The magistrate in whom the whole executive power resides cannot of himself make a law, though he can put a negative on every law, nor administer justice in person, though he has the appointment of those who do administer it. The judges can exercise no executive prerogative, though they are shoots from the executive stock, nor any legislative function, though they may be advised with by the legislative councils. The entire legislature, can perform no judiciary act, though by the joint act of two of its branches, the judges may be removed from their offices; and though one of its branches is possessed of the judicial power in the last resort. The entire legislature again can exercise no executive prerogative, though one of its branches constitutes the supreme executive magistracy; and another, on the impeachment of a third, can try and condemn all the subordinate officers in the executive department.

The reasons on which Montesquieu grounds his maxim are a further demonstration of his meaning. "When the legislative and executive powers are united in the same person or body" says he, "there can be no liberty, because apprehensions may arise lest *the same* monarch or senate should *enact* tyrannical laws, to *execute* them in a tyrannical manner." Again "Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary controul, for *the judge* would then be *the legislator.* Were it joined to the executive power, *the judge* might behave with all the violence of *an oppressor.*" Some of these reasons are more fully explained in other passages; but briefly stated as they are here, they sufficiently establish the meaning which we have put on this celebrated maxim of this celebrated author.

If we look into the constitutions of the several states we find that notwithstanding the emphatical, and in some instances, the unqualified terms in which this axiom has been laid down, there is not a single instance in which the several departments of power have been kept absolutely separate and distinct. New-Hampshire, whose constitution was the last formed, seems to have been fully aware of the impossibility and inexpediency of avoiding any mixture whatever of these departments; and has qualified the doctrine by declaring "that the legislative, executive and judiciary powers ought to be kept as separate from, and independent of each other *as the nature of a free government will admit; or as is consistent with that chain of connection, that binds the whole fabric of the constitution in one indissoluble bond of unity and amity.*" Her constitution accordingly mixes these departments in several respects. The senate which is a branch of the legislative department is also a judicial tribunal for the trial of empeachments. The president who is the head of the executive department, is the presiding member also of the senate; and besides an equal vote in all cases, has a casting vote in case of a tie. The executive head is himself eventually elective every year by the legislative department; and his council is every year chosen by and from the members of the same department. Several of the officers of state are also appointed by the legislature. And the members of the judiciary department are appointed by the executive department.

The constitution of Massachusetts has observed a sufficient though less pointed caution in expressing this fundamental article of liberty. It declares "that the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them." This declaration corresponds precisely with the doctrine of Montesquieu as it has been explained, and is not in a single point violated by the plan of the Convention. It goes no farther than to prohibit any one of the entire departments from exercising the powers of another department. In the very constitution to which it is prefixed, a partial mixture of powers has been admitted. The Executive Magistrate has a qualified negative on the Legislative body; and the Senate, which is a part of the Legislature, is a court of impeachment for members both of the executive and judiciary departments. The members of the judiciary department again are appointable by the executive department, and removable by the same authority, on the address of the two legislative branches. Lastly, a number of the officers of government are annually appointed by the legislative department. As the appointment to offices, particularly executive offices, is in its nature an executive function, the compilers of the Constitution have in this last point at least, violated the rule established by themselves.

I pass over the constitutions of Rhode-Island and Connecticut, because they were formed prior to the revolution; and even before the principle under examination had become an object of political attention.

The constitution of New-York contains no declaration on this subject; but appears very clearly to have been framed with an eye to the danger of improperly blending the different departments. It gives nevertheless to the executive magistrate a partial controul over the legislative department; and what is more, gives a like controul to the judiciary department, and even blends the executive and judiciary departments in the exercise of this controul. In its council of appointment, members of the legislative are associated with the executive authority in the appointment of officers both executive and judiciary. And its court for the trial of impeachments and correction of errors, is to consist of one branch of the legislature and the principal members of the judiciary department.

The constitution of New-Jersey has blended the different powers of government more than any of the preceding. The governor, who is the executive magistrate, is appointed by the legislature; is chancellor and ordinary or surrogate of the state; is a member of the supreme court of appeals, and president with a casting vote, of one of the legislative branches. The same legislative branch acts again as executive council to the governor, and with him constitutes the court of appeals. The members of the judiciary department are appointed by the legislative department, and removable by one branch of it, on the impeachment of the other.

According to the constitution of Pennsylvania, the president, who is head of the executive department, is annually elected by a vote in which the legislative department predominates. In conjunction with an executive council, he appoints the members of the judiciary department, and forms a court of impeachments for trial of all officers, judiciary as well as executive. The judges of the supreme court, and justices of the peace, seem also to be removeable by the legislature; and the executive power of pardoning in certain cases to be referred to the same department. The members of the executive council are made EX OFFICIO justices of peace throughout the state.

In Delaware, the chief executive magistrate is annually elected by the legislative department. The speakers of the two legislative branches are vice-presidents in the executive department. The executive chief, with six others, appointed three by each of the legislative branches, constitute the supreme court of appeals: He is joined with the legislative department in the appointment of the other judges. Throughout the states it appears that the members of the legislature may at the same time be justices of the peace. In this state, the members of one branch of it are EX OFFICIO justices of peace; as are also the members of the executive council. The principal officers of the executive department are appointed by the legislative; and one branch of the latter forms a court of impeachments. All officers may be removed on address of the legislature.

Maryland has adopted the maxim in the most unqualified terms; declaring that the legislative, executive and judicial powers of government, ought to be forever separate and distinct from each other. Her constitution, notwithstanding makes the executive magistrate appointable by the legislative department; and the members of the judiciary, by the executive department.

The language of Virginia is still more pointed on this subject. Her constitution declares, "that the legislative, executive and judiciary departments, shall be separate and distinct; so that neither exercise the powers properly belonging to the other; nor shall any person exercise the powers of more than one of them at the same time; except that the justices of the county courts shall be eligible to either house of assembly." Yet we find not only this express exception, with respect to the members of the inferior courts; but that the chief magistrate with his executive council are appointable by the legislature; that two members of the latter are triennially displaced at the pleasure of the legislature; and that all the principal offices, both executive and judiciary, are filled by the same department. The executive prerogative of pardon, also is in one case vested in the legislative department.

The constitution of North-Carolina, which declares, "that the legislative, executive and supreme judicial powers of government, ought to be forever separate and distinct from each other," refers at the same time to the legislative department, the appointment not only of the executive chief, but all the principal officers within both that and the judiciary department.

In South-Carolina, the constitution makes the executive magistracy eligible by the legislative department. It gives to the latter also the appointment of the members of the judiciary department, including even justices of the peace and sheriffs; and the appointment of officers in the executive department, down to captains in the army and navy of the state.

In the constitution of Georgia, where it is declared, "that the legislative, executive and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other." We find that the executive department is to be filled by appointments of the legislature; and the executive prerogative of pardon, to be finally exercised by the same authority. Even justices of the peace are to be appointed by the legislature.

In citing these cases in which the legislative, executive and judiciary departments, have not been kept totally separate and distinct, I wish not to be regarded as an advocate for the particular organizations of the several state governments. I am fully aware that among the many excellent principles which they exemplify, they carry strong marks of the haste, and still stronger of the inexperience, under which they were framed. It is but too obvious that in some instances, the fundamental principle under consideration has been violated by too great a mixture, and even an actual consolidation of the different powers; and that in no instance has a competent provision been made for maintaining in practice the separation delineated on paper. What I have wished to evince is, that the charge brought against the proposed constitution, of violating a sacred maxim of free government, is warranted neither by the real meaning annexed to that maxim by its author; nor by the sense in which it has hitherto been understood in America. This interesting subject will be resumed in the ensuing paper.

Publius

Anti-Federalist Reading: Federal Farmer

(www.constitution.org/afp/fedfarmer.txt)

Observations
Leading to a Fair Examination of the System
Of Government
Proposed by the Late Convention;
And to Several Essential and Necessary
Alterations in It.
In a Number of Letters from the
Federal Farmer to the Republican

October 8th, 1787

Dear Sir,

My letters to you last winter, on the subject of a well balanced national government for the United States, were the result of free enquiry; when I passed from that subject to enquiries relative to our commerce, revenues, past administration, etc. I anticipated the anxieties I feel, on carefully examining the plan of government proposed by the convention. It appears to be a plan retaining some federal features; but to be the first important step, and to aim strongly to one consolidated government of the United States. It leaves the powers of government, and the representation of the people, so unnaturally divided between the general and state governments, that the operations of our system must be very uncertain. My uniform federal attachments, and the interest I have in the protection of property, and a steady execution of the laws, will convince you, that, if I am under any biass at all, it is in favor of any general system which shall promise those advantages. The instability of our laws increases my wishes for firm and steady government; but then, I can consent to no government, which, in my opinion, is not calculated equally to preserve the rights of all orders of men in the community. My object has been to join with those who have endeavoured to supply the defects in the forms of our governments by a steady and proper administration of them. Though I have long apprehended that fraudalent debtors, and embarrassed men, on the one hand, and men, on the other, unfriendly to republican equality, would produce an uneasiness among the people, and prepare the way, not for cool and deliberate reforms in the governments, but for changes calculated to promote the interests of particular orders of men. Acquit me, sir, of any agency in the formation of the new system; I shall be satisfied with seeing, if it shall be adopted, a prudent administration. Indeed I am so much convinced of the truth of Pope's maxim, that "That which is best administered is best," that I am much inclined to subscribe to it from experience. I am not disposed to unreasonably contend about forms. I know our situation is critical, and it behoves us to make the best of it. A federal government of some sort is necessary. We have suffered the present to languish; and whether the confederation was capable or not originally of answering any valuable purposes, it is now but of little importance. I will pass by the men, and states, who have been particularly instrumental in preparing the way for a change, and, perhaps, for governments not very favourable to the people at large. A constitution is now presented which we may reject, or which we may accept, with or without amendments; and to which point we ought to direct our exertions, is the question. To determine this question, with propriety, we must attentively examine the system itself, and the probable consequences of either step. This I shall endeavour to do, so far as I am able, with candor and fairness; and leave you to decide upon the propriety of my opinions, the weight of my reasons, and how far my conclusions are well drawn. Whatever may be the conduct of others, on the present occasion, I do not mean, hastily and positively to decide on the merits of the constitution proposed. I shall be open to conviction, and always disposed to adopt that which, all things considered, shall appear to me to be most for the happiness of the community. It must be granted, that if men hastily and blindly adopt a system of government, they will as hastily and as blindly be led to alter or abolish it; and changes must ensue, one after another, till the peaceable and better part of the community will grow weary with changes, tumults and disorders, and be disposed to accept any government, however despotic, that shall promise stability and firmness.

The first principal question that occurs, is. Whether, considering our situation, we ought to precipitate the adoption of the proposed constitution? If we remain cool and temperate, we are in no immediate danger of any commotions; we are in a state of perfect peace, and in no danger of invasions; the state governments are in the full exercise of their powers; and our governments answer all present exigencies, except the regulation of trade, securing credit, in some cases, and providing for the interest, in some instances, of the public debts; and whether we adopt a change, three or nine months hence, can make but little odds with the private circumstances of individuals; their happiness and prosperity, after all, depend principally upon their own exertions. We are hardly recovered from a long and distressing war: The farmers, fishmen, &c. have not yet fully repaired the waste made by it. Industry and frugality are again assuming their proper station. Private debts are lessened, and public debts incurred by the war have been, by various ways, diminished; and the public lands have now become a productive source for diminishing them much more. I know uneasy men, who wish very much to precipitate, do not admit all these facts; but they are facts well known to all men who are thoroughly informed in the affairs of this country. It must, however, be admitted, that our federal system is defective, and that some of the state governments are not well administered; but, then, we impute to the defects in our governments many evils and embarrassments which are most clearly the result of the late war. We must allow men to conduct on the present occasion, as on all similar ones. They will urge a thousand pretences to answer their purposes on both sides. When we want a man to change his condition, we describe it as miserable, wretched, and despised; and draw a pleasing picture of that which we would have him assume. And when we wish the contrary, we reverse our descriptions. Whenever a clamor is raised, and idle men get to work, it is highly necessary to examine facts carefully, and without unreasonably suspecting men of falshood, to examine, and enquire attentively, under what impressions they act. It is too often the case in political concerns, that men state facts not as they are, but as they wish them to be; and almost every man, by calling to mind past scenes, will find this to be true.

Nothing but the passions of ambitious, impatient, or disorderly men, I conceive, will plunge us into commotions, if time should be taken fully to examine and consider the system proposed. Men who feel easy in their circumstances, and such as are not sanguine in their expectations relative to the consequences of the proposed change, will remain quiet under the existing governments. Many commercial and monied men, who are uneasy, not without just cause, ought to be respected; and, by no means, unreasonably disappointed in their expectations and hopes; but as to those who expect employments under the new constitution; as to those weak and ardent men who always expect to be gainers by revolutions, and whose lot it generally is to get out of one difficulty into another, they are very little to be regarded: and as to those who designedly avail themselves of this weakness and ardor, they are to be despised. It is natural for men, who wish to hasten the adoption of a measure, to tell us, now is the crisis — now is the critical moment which must be seized, or all will be lost: and to shut the door against free enquiry, whenever conscious the thing presented has defects in it, which time and investigation will probably discover. This has been the custom of tyrants and their dependants in all ages. If it is true, what has been so often said, that the people of this country cannot change their condition for the worse, I presume it still behoves them to endeavour deliberately to change it for the better. The fickle and ardent, in any community, are the proper tools for establishing despotic government. But it is deliberate and thinking men, who must establish and secure governments on free principles. Before they decide on the plan proposed, they will enquire whether it will probably be a blessing or a curse to this people.

The present moment discovers a new face in our affairs. Our object has been all along, to reform our federal system, and to strengthen our governments — to establish peace, order and justice in the community — but a new object now presents. The plan of government now proposed is evidently calculated totally to change, in time, our condition as a people. Instead of being thirteen republics, under a federal head, it is clearly designed to make us one consolidated government. Of this, I think, I shall fully convince you, in my following letters on this subject. This consolidation of the states has been the object of several men in this country for some time past. Whether such a change can ever be effected in any manner; whether it can be effected without convulsions and civil wars; whether such a change will not totally destroy the liberties of this country — time only can determine.

To have a just idea of the government before us, and to shew that a consolidated one is the object in view, it is necessary not only to examine the plan, but also its history, and the politics of its particular friends.

The confederation was formed when great confidence was placed in the voluntary exertions of individuals, and of the respective states; and the framers of it, to guard against usurpation, so limited and checked the powers, that, in many respects, they are inadequate to the exigencies of the union. We find, therefore, members of congress urging alterations in the federal system almost as soon as it was adopted. It was early proposed to vest congress with powers to levy an impost, to regulate trade, etc. but such was known to be the caution of the states in parting with power, that the vestment, even of these, was proposed to be under several checks and limitations. During the war, the general confusion, and the introduction of paper money, infused in the minds of people vague ideas respecting government and credit. We expected too much from the return of peace, and of course we have been disappointed. Our governments have been new and unsettled; and several legislatures, by making tender, suspension, and paper money laws, have given just cause of uneasiness to creditors. By these and other causes, several orders of men in the community have been prepared, by degrees, for a change of government; and this very abuse of power in the legislatures, which, in some cases, has been charged upon the democratic part of the community, has furnished aristocratical men with those very weapons, and those very means, with which, in great measure, they are rapidly effecting their favourite object. And should an oppressive government be the consequence of the proposed change, posterity may reproach not only a few overbearing unprincipled men, but those parties in the states which have misused their powers.

The conduct of several legislatures, touching paper money, and tender laws, has prepared many honest men for changes in government, which otherwise they would not have thought of — when by the evils, on the one hand, and by the secret instigations of artful men, on the other, the minds of men were become sufficiently uneasy, a bold step was taken, which is usually followed by a revolution, or a civil war. A general convention for mere commercial purposes was moved for — the authors of this measure saw that the people's attention was turned solely to the amendment of the federal system; and that, had the idea of a total change been started, probably no state would have appointed members to the convention. The idea of destroying, ultimately, the state government, and forming one consolidated system, could not have been admitted — a convention, therefore, merely for vesting in congress power to regulate trade was proposed. This was pleasing to the commercial towns; and the landed people had little or no concern about it. September, 1786, a few men from the middle states met at Annapolis, and hastily proposed a convention to be held in May, 1787, for the purpose, generally, of amending the confederation — this was done before the delegates of Massachusetts, and of the other states arrived — still not a word was said about destroying the old constitution, and making a new one — The states still unsuspecting, and not aware that they were passing the Rubicon, appointed members to the new convention, for the sole and express purpose of revising and amending the confederation — and, probably, not one man in ten thousand in the United States, till within these ten or twelve days, had an idea that the old ship was to be destroyed, and he put to the alternative of embarking in the new ship presented, or of being left in danger of sinking — The States. I believe, universally supposed the convention would report alterations in the confederation, which would pass an examination in congress, and after being agreed to there, would be confirmed by all the legislatures, or be rejected. Virginia made a very respectable appointment, and placed at the head of it the first man in America: In this appointment there was a mixture of political characters; but Pennsylvania appointed principally those men who are esteemed aristocratical. Here the favourite moment for changing the government was evidently discerned by a few men, who seized it with address. Ten other states appointed, and tho' they chose men principally connected with commerce and the judicial department yet they appointed many good republican characters — had they all attended we should now see, I am persuaded a better system presented. The non-attendance of eight or nine men, who were appointed members of the convention, I shall ever consider as a very unfortunate event to the United States. — Had they attended, I am pretty clear, that the result of the convention would not have had that strong tendency to aristocracy now discernable in every part of the plan. There would not have been so great an accumulation of powers, especially as to the internal police of the country, in a few hands, as the constitution reported proposes to vest in them — the young visionary men, and

the consolidating aristocracy, would have been more restrained than they have been. Eleven states met in the convention, and after four months close attention presented the new constitution, to be adopted or rejected by the people. The uneasy and fickle part of the community may be prepared to receive any form of government; but, I presume, the enlightened and substantial part will give any constitution presented for their adoption, a candid and thorough examination; and silence those designing or empty men, who weakly and rashly attempt to precipitate the adoption of a system of so much importance — We shall view the convention with proper respect — and, at the same time, that we reflect there were men of abilities and integrity in it, we must recollect how disproportionably the democratic and aristocratic parts of the community were represented — Perhaps the judicious friends and opposers of the new constitution will agree, that it is best to let it rest solely on its own merits, or be condemned for its own defects.

In the first place, I shall premise, that the plan proposed is a plan of accommodation — and that it is in this way only, and by giving up a part of our opinions, that we can ever expect to obtain a government founded in freedom and compact. This circumstance candid men will always keep in view, in the discussion of this subject.

The plan proposed appears to be partly federal, but principally however, calculated ultimately to make the states one consolidated government.

The first interesting question, therefore suggested, is, how far the states can be consolidated into one entire government on free principles. In considering this question extensive objects are to be taken into view, and important changes in the forms of government to be carefully attended to in all their consequences. The happiness of the people at large must be the great object with every honest statesman, and he will direct every movement to this point. If we are so situated as a people, as not to be able to enjoy equal happiness and advantages under one government, the consolidation of the states cannot be admitted.

There are three different forms of free government under which the United States may exist as one nation; and now is, perhaps, the time to determine to which we will direct our views. 1. Distinct republics connected under a federal head. In this case the respective state governments must be the principal guardians of the peoples rights, and exclusively regulate their internal police; in them must rest the balance of government. The congress of the states, or federal head, must consist of delegates amenable to, and removeable by the respective states: This congress must have general directing powers; powers to require men and monies of the states; to make treaties, peace and war; to direct the operations of armies, etc. Under this federal modification of government, the powers of congress would be rather advisary or recommendatory than coercive. 2. We may do away the several state governments, and form or consolidate all the states into one entire government, with one executive, one judiciary, and one legislature, consisting of senators and representatives collected from all parts of the union: In this case there would be a compleat consolidation of the states. 3. We may consolidate the states as to certain national objects, and leave them severally distinct independent republics, as to internal police generally. Let the general government consist of an executive, a judiciary, and balanced legislature, and its powers extend exclusively to all foreign concerns, causes arising on the seas to commerce, imports, armies, navies, Indian affairs, peace and war, and to a few internal concerns of the community; to the coin, post-offices, weights and measures, a general plan for the militia, to naturalization, and, perhaps to bankruptcies, leaving the internal police of the community, in other respects, exclusively to the state governments; as the administration of justice in all causes arising internally, the laying and collecting of internal taxes, and the forming of the militia according to a general plan prescribed. In this case there would be a compleat consolidation, quoad certain objects only.

Touching the first, or federal plan, I do not think much can be said in its favor: The sovereignty of the nation, without coercive and efficient powers to collect the strength of it, cannot always be depended on to answer the purposes of government; and in a congress of representatives of sovereign states, there must necessarily be an unreasonable mixture of powers in the same hands.

As to the second, or compleat consolidating plan, it deserves to be carefully considered at this time, by every American: If it be impracticable, it is a fatal error to model our governments, directing our

views ultimately to it.

The third plan, or partial consolidation, is, in my opinion, the only one that can secure the freedom and happiness of this people. I once had some general ideas that the second plan was practicable, but from long attention, and the proceedings of the convention, I am fully satisfied, that this third plan is the only one we can with safety and propriety proceed upon. Making this the standard to point out, with candor and fairness, the parts of the new constitution which appear to be improper, is my object. The convention appears to have proposed the partial consolidation evidently with a view to collect all powers ultimately, in the United States into one entire government; and from its views in this respect, and from the tenacity of the small states to have an equal vote in the senate, probably originated the greatest defects in the proposed plan.

Independant of the opinions of many great authors, that a free elective government cannot be extended over large territories, a few reflections must evince, that one government and general legislation alone, never can extend equal benefits to all parts of the United States: Different laws, customs, and opinions exist in the different states, which by a uniform system of laws would be unreasonably invaded. The United States contain about a million of square miles, and in half a century will, probably, contain ten millions of people; and from the center to the extremes is about 800 miles.

Before we do away the state governments, or adopt measures that will tend to abolish them, and to consolidate the states into one entire government, several principles should be considered and facts ascertained: — These, and my examination into the essential parts of the proposed plan, I shall pursue in my next.

Your's &c. The Federal Farmer.

★ The First Amendment ★

Purpose

The purpose of this lesson is for students to examine the freedoms and rights provided for in the First Amendment.

Objective

The student will conceive of and explore the activities in which he or she participates daily that are guaranteed under the First Amendment.

Theme-Unity

The First Amendment to the Constitution was written to provide for unity among the people and to prevent the persecution and dis-harmony that occurred when the king supported only one religion.

NCSS Standards

Ia. analyze and explain the ways groups, societies, and cultures address human needs and concerns.
IIf. apply ideas, theories, and modes of historical inquiry to analyze historical and contemporary developmentss, and to inform and evaluate actions concerning public policy issues.
Vd. identify and analyze examples of tensions between expressions of individuality and efforts used to promote social conformity by groups and institutions.
Vg. analyze the extent to which groups and institutions meet individual needs and promote the common good in contemporary and historical settings.
IXf. analyze or formulate policy statements demonstrating an understanding of concerns, standards, issues, and conflicts related to universal human rights.
Xb. identify, analyze, interpret, and evaluate sources and examples of citizens' rights and responsibilities.

Time

60 minutes

Materials

- ★ American Heritage handouts
- ★ Dictionaries
- ★ Art Supplies
- ★ National News Magazines
- ★ First Amendment Supreme Court decisions

Preparation

- ★ Copy handouts
- ★ Gather supplies (as needed).

Focus

Ask students to list their rights as citizens as expressed in the Bill of Rights and to list where they learned that these were their rights. Remind them of the video infomercial, "School House Rocks," and how their sources of information have been what they see on television. This lesson can be a framework or springboard from which the teacher can discuss any of the other rights to be explored. Show or play the Bill of Rights song from the "School House Rocks" series. Ask students what they think their rights are. Discuss answers.

Activity

1. Introduce the terms associated with the First Amendment. What do they mean? Divide the class into groups and pass out one set of supplies to each group.
2. Each group will create a collage displaying the rights the First Amendment guarantees them.
3. Share and discuss each group's final project. As enrichment, students can review recent court cases that examine the freedoms of the First Amendment.

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The First Amendment—Religion Clauses

Historical Background

Early Roots for a Bill of Rights and Religious Liberty—"Toleration"

Many of the colonists settling in the New World during the seventeenth and eighteenth centuries were refugees from religious oppression. Puritan, Catholic, Quaker, and other dissenters who emigrated to the Colonies had often suffered bitterly at the hands of the law—"Ruler's Law." Upon arrival in America, the religious dissenters tended to be particularly sensitive to the threat of ecclesiastical and judicial tyranny. Whenever they had the opportunity, they sought to protect their civil and religious liberties through legal codes—man-made laws protecting themselves from government. These early codes established a tradition of "bills of rights" in America that eventually led to the Bill of Rights, the first ten Amendments to the U.S. Constitution.

Early bills of rights were deeply influenced by the principle of a "higher" or fundamental law that the religiously persecuted maintained came from God. They argued that man is called by God to obey a higher law than men can make. This further led them to believe that no magistrate had the power to deny this "higher law" to the people.

The Puritans were the first English Protestants to adopt this revolutionary creed—and they suffered for their disobedience. When they arrived in Massachusetts Bay, the Puritans were determined that the civil government would not subvert their fundamental religious freedom.

Although the Puritans disliked the established Church of England, it was the *nature* of the established religion, not the fact that it was established, that they deplored. When the opportunity arose in the Colonies, these Puritans established their own faith and persecuted all others—once again becoming a government over

dissenters
The refusal to conform to the authority or doctrine of an established or national church, esp., a Protestant who differs with the Church of England

ecclesiastical
Of or pertaining to a church, esp., as an organized institution

Quotations Regarding "Religious Toleration"

"At length, sailing from this place [England], we reached the *cape*, which they call *Point Comfort*, in Virginia, on the 27th of February, full of apprehension . . . . On the day of *the Ascension of the Most Holy Virgin* Mary in the year 1634, we celebrated the mass for the first time, on the island. This had never been done before in this part of the world." (italics in the original)

Fr. Andrew White, S.J., "English America's First Mass," Gaustad, *A Documentary History*, pp. 113-14

"That there is such a thing as conscience, and the liberty of it, in reference to faith and worship towards God, must not be denied, even by those that are most scandalized at the ill use some seem to have made of such pretenses."

William Penn, "Liberty of Conscience," Gaustad, *A Documentary History*, p. 119

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man. Interestingly, few of the first colonists valued the principle of "religious toleration."

Others persecuted, such as the Quakers, suffered far worse than the Puritans for their beliefs. Although they had "no ministry, no sacraments, no liturgy, no structure, no weapons," a number of unusual practices—greetings of "thee" and "thou," honoring neither man nor law, and taking no oaths against their conscience—made them obvious targets for persecution in an age of intolerance. Hundreds of Quakers, including William Penn, suffered trial and imprisonment for exercising their religious beliefs. When Penn set out to frame the government and laws of Pennsylvania, he was careful to include a fully developed bill of rights.

In 1636, Penn issued "A Persuasive to Moderation to Church Dissenters in Prudence and Conscience," wherein he pleads against the prejudices of the times.

> "Penn's Holy Experiment [Pennsylvania, a Quaker refuge] rested upon the conviction that men and women were not to be coerced in matters of religion, for true religion flourished best where force was found least. . . . —he continued to argue that religious persecution was a costly as well as a bloody business" (Edwin S, Gaustad, ed., *A Documentary History of Religion in America: to the Civil War,* William B. Eerdmans Publishing Company, Grand Rapids, 1982, p. 119).

Catholics were the most despised religious group in English society. Toleration was soon established by Lord Baltimore in Maryland, which was initially a refuge for Catholics. Knowing that not enough Catholics would come to establish the new Colony and that others would come, Baltimore made religious liberty and toleration a basic part of Maryland's civil law.

> "Recognizing their minority status, Catholics under Baltimore invited Protestants to settle there; in 1649, the former even passed an 'Act of Toleration' to guarantee religious liberty to such Protestants. Unhappily, when Protestants later seized control of the colony, similar guarantees were not extended to Catholics" (Gaustad, *A Documentary History,* pp. 112-13).

The first Colony to establish religious tolerance was Rhode Island.

Quakers (Society of Friends)
Seemed to the vast majority of their seventeenth-century English countrymen an example of religion gone mad. They originated in England in 1651 under the ministrations of George Fox. When the opportunity came in 1681 to establish a refuge in the New World, William Penn seized the opportunity and founded Pennsylvania.

sacraments
Formal Christian rites, such as baptism, esp., one considered to have been instituted by Jesus as a means of grace

liturgy
The prescribed form for a religious service; ritual

oaths
A declaration or promise to act in a certain way, made with God as witness

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"Massachusetts saw itself as pursuing a grand 'errand into the wilderness,' creating there a model community and a pure church. *No one* was to be allowed to frustrate that errand. When some tried, they were either exiled (Roger Williams in 1635, Anne Hutchinson in 1638) or hanged (four Quakers in Boston, 1659-61). Roger Williams, exiled for contending that the puritans must separate themselves from the impure Church of England and must separate their civil from their ecclesiastical estates, left Massachusetts to found Rhode Island in 1636. That beleaguered little colony was to become a religious refuge for religious liberty, with Williams himself continuing to be (for nearly half a century) that liberty's leading advocate" (Gaustad, *A Documentary History*, p. 114). (italics added)

Anne Hutchinson
A Massachusetts dissident. Because she was a threat to the local ministers for claiming that only grace gained by faith brought salvation, an idea called Antinomianism, they brought charges against her claiming her a threat to local ministerial authority. She was first exiled and then excommunicated. After initial jailing, Hutchinson fled with her husband and seven children to Williams' Rhode Island and founded a new settlement.

Early American Roots for the "Separation of Church and State"

The origins, development, and practice of "separation of church and state" in the New World during the seventeenth and eighteenth centuries are important for at least two primary reasons. First, the practice of "separation" was an anomaly in that this had never occurred in England, in other European countries, or on any other continent. These institutions, church and state, had usually been mutually supportive, except when one attempted to control the other. Countries having "established churches," that is, churches approved of, sponsored, funded, and protected, *to the exclusion of others*, by the host government, always demanded sworn allegiance to the national church. The radical American "experiment" became something much different.

And second, Supreme Court decisions to this day are supposed to reflect and interpret the *intended meanings* of statements and extant documents including letters, pamphlets, the Constitution with the Bill of Rights (the first ten Amendments) of the "Founding Fathers" and "Framers" and other eminent earlier men, laws of the individual states, and the "customs of the people." Following the establishment of earlier Supreme Court decisions, the Court Justices, interpreting the above tradition and law, then began to place a much stronger emphasis on "precedence"—previous Court decisions.

extant
Still existing, such as documents

Further, the concept and convention of the "separation of church and state" had its beginnings in colonial America long before the Founding Fathers penned the Constitution and the Bill of Rights in the late eighteenth century. But it was usually rejected as heretical or as the wailing of nonconforming dissidents such as Roger Williams.

heretical
Of, or relating to, an opinion or doctrine at variance with established religious beliefs

Paradoxically, many of those who had fled Europe and come to America to escape the established and intolerant religions believed deeply that it was natural for religion and state to embrace each other. They established institutional relations much like those they had left behind, including religious intolerance. The church and state were likewise intertwined in the new American Colonial settlements. With few exceptions (such as Penn and Baltimore, noted above), those that fled European persecution were no more tolerant of religious dissenters than those from whom they had fled. These dissenters were seen as heretical—a threat to both the state and religious orthodoxy—and were shunned, banished, and/or excommunicated. The result was that established churches became the norm in early colonial British America.

excommunicated
Excluded from membership in a church by ecclesiastical authority

But America's religious history is not quite so simple. Although establishment was the standard practice, there were aberrations. The first was that brought about by Roger Williams. He had accepted an appointment as minister at the Puritan Boston Church. He then immediately admonished church members that there must be a radical separation between the church and the material world. He had little success in Boston. Williams thought that he might fare better at Plymouth because these Puritan "separatists" (Pilgrims) had stressed and adhered to an *absolute* separation from the Church of England. He discovered upon arrival that the Pilgrim separation was not as clear-cut as he had thought. Williams retreated back to Massachusetts.

For the next two years, Roger Williams was in one predicament after another with the General Court in Boston. For Williams, the difference between the church and the world was absolute, one pure, one impure, with every part of worship kept separate from the world. He was so uncompromising about the principle of separation that he was deemed a liability and threat to the civil order. This threat could not be tolerated. Boston pastor John Cotton voiced thoughts of various colonial authorities regarding Williams, and referred to Williams'

> "violent and tumultuous disposition; his condemnation of the Puritan State—Church system; his conscientious objection to certain oaths; his statement that the civil authorities had no power to

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> enforce the religious injunctions of the ten commandments;" (Anson Phelps Stokes, *Church and State in the United States*, Harper & Brothers, New York, 1950, p. 195).

After being charged and confronted by the General Court, Roger Williams responded with his own opening salvo and charged that when God's people open

> "a gap in the hedge or *wall of separation* between the garden of the church and the wilderness of the world, God hath ever broke down the wall itself . . . and made his garden a wilderness, as at this day. And that there fore if He will eer please to restore His garden and paradise again, it must of necessity be walled in peculiarly unto Himself from the world . . ." (John Eidsmore, *Christianity and the Constitution: The Faith of the Founding Fathers*, Baker Books, Grand Rapids, p. 243). (italics added)

He further told the Court, more pointedly Rev. John Cotton, that the whole of the dispute was that they had "allowed the world to invade and corrupt the church." Roger Williams was ordered exiled from the New World and back to England.

After banishment on October 9, 1635, Roger Williams slipped away and founded a new colony, Providence (Rhode Island). He wanted a colony which would shelter all "distressed in conscience"; Although Williams' authority for the doctrine of "separation of church and state" was based on various biblical texts, Cotton Mather, another Bay Colony minister, nevertheless claimed that Williams was the "first rebel against the divine church-order established in the wilderness [Colonial America]."

Williams' theory of the church was that of a "voluntary association" and in which civil government, which rested on the consent of the people, ought only concern itself with civil affairs because any attempt by the state to force uniformity of religion caused civil wars. For him, *religious liberty and freedom of conscience had never been surrendered to the state but was something retained by the people when they formed their government—not a gift of the government.* And regardless of the fact that reactionary contemporaries referred to Williams' colony of Rhode Island as "Rogues Island," history has recorded his vital contribution to American freedom (Eidsmore, pp. 196-97).

For Williams, the chief function of the State was the protection of the individual in all his natural and civil rights and

liberties. Williams thought that the realms of Church authority and State authority belonged in, and must remain in, two separate spheres: "All Civill States with their Officers of justice in their respective constitutions and administrations are proved essentially Civill, and therefore not Judges, Governors or Defendours of the Spirituall or Christian State and Worship" (Eidsmore, pp. 196-97). Roger Williams was the most radical and critical intellect in the early Colonies. He was the first to found a colony upon the principle of "separation of church and state."

Regardless, 140 years later at the beginning of the American Revolution in 1776, nine of the thirteen colonies had "established" churches. The Anglican Church had been first established in the New World in Virginia in 1609, later in New York's lower counties in 1693, in Maryland in 1702, in South Carolina in 1706, and nominally in North Carolina and Georgia in 1711 and 1758, respectively. The Congregational Church was established in Massachusetts, Connecticut, and New Hampshire upon settlement.

But a new mood was developing by the time of the Constitutional Convention in Philadelphia in the summer of 1787. Eleven years later, only five states still retained religious "establishment": Connecticut, Georgia, Massachusetts, New Hampshire, and South Carolina. The Anglican Church had been disestablished in Virginia, New York, and North Carolina during the Revolutionary War and then in Maryland in 1786. The continuing elimination of established churches after ratification of the Federal Constitution in 1789 culminated in the disestablishment of the Anglican Church in Georgia in 1789 and the Congregational Church in Connecticut in 1818, in New Hampshire in 1819, and finally in Massachusetts in 1833, the last hold-out (Richard B. Morris, *The Encyclopedia of Modern History*, Harper and Row, New York, Bicentennial Edition, 1976, p. 82).

After two hundred years of "established" churches in America, with the first in Virginia in 1609 and for those claiming a "separation of church and state," beginning with Rhode Island in 1636, the nation was free of formal establishment of religion, and liberty of conscience was in place. Or was it?

Anglican Church
The Church of England and the churches in other nations that are in complete agreement with it as to doctrine and discipline and are in communion with the Archbishop of Canterbury

Congregational Church
The autonomous churches formed in New England by the non-separatist Puritans who sought to reform the Church of England

Additional Reading

★ Ball, William Bentley. *Mere Creatures of the State?: Education, Religion, and the Courts: A View from the Courtroom.* Notre Dame, IN: Crisis Books, 1994.
★ Curry, Thomas J. *The First Freedoms: Church and State in America to the Passage of the First Amendment.* New York: Oxford University Press, 1986.
★ Gaustad, Edwin. *Liberty of Conscience: Roger Williams in America.* Grand Rapids, MI: William B. Eerdmans Publishing Company, 1991.
★ Goldwin, Robert A. *From Parchment to Power: How James Madison Used the Bill of Rights to Save the Constitution.* Washington, D.C.: The AEI Press, 1997.
★ Lowenthal, David. *No Liberty for License: The Forgotten Logic of the First Amendment.* Dallas: Spence Publishing Company, 1997.

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Purpose of Amendments

Because of the opposition to the adoption of the Constitution by anti-Federalists, several states proposed amending the document to better protect the states as well as individuals from the incursions of the newly proposed centralized federal government. The people were frightened and suspicious of new and untried national control. This anti-Federal sentiment was particularly strong in Rhode Island. This state did not bother to send a delegate to the Constitutional Convention.

The Rhode Island government refused to call for a ratifying convention until the spring of 1790, more than one year after the Federal government had begun operating in New York. As citizens of the smallest state, Rhode Island saw little advantage in a consolidated government in which the views of the larger states would naturally dominate. But its chief objection was the lack of a "bill of rights." When the state government finally called for a ratifying convention, several amendments were attached. Protection of the right of religious liberty was most prominent among the other proposals. Rhode Island finally ratified the U.S. Constitution and became the last of the original thirteen states to enter the Union.

Thus, ten additional Articles were drafted, debated, and eventually adopted. They became the first ten Amendments to the Constitution and were finally ratified on December 15, 1791. We will examine the First Amendment, in part.

Article I (First Amendment—Religion Clauses)

> "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; . . . ."

The American civil "experiment" is indeed radical. Its citizens have not only created a democratic republic but have built into the Constitution through the First Amendment not only freedom *of* religion but freedom *from* religion. Eventually the Supreme Court gave a title to each of these clauses— The Establishment Clause" and "The Free Exercise Clause."

The Court has made some dramatic decisions during these past five decades, since its decision in *Everson v. Board of Education* (1947). Lawyers, educators, jurists, and others have written many volumes about the first sixteen words of Article I and the Court's interpretations.

Note: Because of the breadth and depth of work, especially by the Supreme Court, this discussion regarding the "Religion Clauses" of the First Amendment can be divided into three parts as follows:

Part I	The "wall of separation between church and state"
Part II	The Establishment Clause
Part III	The Free Exercise Clause

A discussion of Part I is included here.

The "wall of separation between church and state"

This phrase is so common that it is usually thought to be part of the First Amendment. This phrase is found nowhere in the U.S. Constitution. The Supreme Court has so often used this phrase and attributed it to Thomas Jefferson that many Americans think they know its origin and meaning. There are at least three different meanings for this phrase: the Supreme Court's, Thomas Jefferson's, and Roger Williams'.

The Supreme Court has explained in part:

> "[It] means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbelief, for church attendance or nonattendance. No tax, in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state or the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. *In the words of Jefferson, the Clause against establishment of religion by law was intended to erect a "wall of separation between church and state." . . . That wall must be kept high and impregnable. We could not approve the slightest breach" (Everson v. Board of Education*, 330 US 1, 91 L ed 711 (1947), pp. 15-16). (italics added)

In this case, the Court has taken only a few words of Jefferson's—keeping them out of context—and twisted this short phrase to mean something entirely different than what he intended or would have imagined. These words were taken from a once obscure letter written in 1802 by Jefferson to the Danbury Baptist Church. This letter was written to inform the Baptists that he would not proclaim a national church, imposing it on the citizenry. Jefferson used language that he knew they would be familiar with, the words of the first American Baptist Roger Williams:

> "a gap in the hedge or *wall of separation* between the garden of the church and the wilderness of the world, God hath ever broke down the wall itself . . . and made His garden a wilderness, as at this day. And that there fore if He will eer please to restore His garden and paradise again, it must of necessity be walled in peculiarly unto Himself from the world . . ." (Eidsmore, p. 243). (italics added)

Seventy years before the *Everson* (1947) decision, in *Reynolds v. United States* (1878), the Supreme Court used this same letter to support an *opposite* decision. The Court claimed that Jefferson's letter made it clear that he was not claiming a strict "separation of church and state."

> "Using Jefferson's letter, the Court showed that while the government was *not* free to interfere with opinions on religion, which is what frequently distinguishes one denomination from another, it *was* responsible to enforce civil laws according to general Christian standards. In other words, separation of church and state pertained to denominational differences, not to basic Christian principles" (David Barton, *The Myth of separation: What is the correct relationship between Church and State?*, WallBuilder Press, Aledo, Texas, 1992, p. 43). (emphasis in the original)

There are still other reasons to believe that Thomas Jefferson was not a strict-separationist, and therefore his meaning for the "wall of separation" is different than that of the Supreme Court that ruled for complete separation. Another part of his letter states:

> "Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of government reach actions only, and not opinions . . . " (Merrill D. Peterson, ed., "Reply to the Danbury Baptist Association, in Connecticut, January 1, 1802," *The Political Writings of Thomas Jefferson*, Thomas Jefferson Memorial Foundation, 1993, p. 145).

In an earlier document written by Jefferson, *Kentucky Resolutions*, he stipulates that the U.S. Constitution delegates "no power over the freedom of religion" and that the First Amendment guards the freedom of religion" (Peterson, "Draft of the Kentucky Resolutions (1798)," p. 127).

In a later letter to Reverend Samuel Miller, January 23, 1808, Jefferson claims that the federal government is prohibited by the Constitution from "intermeddling with religious institutions, their doctrines, disciplines, or exercises." His argument is against a nationally prescribed "day of fasting & prayer":

> "But it is only proposed that I should *recommend*, not prescribe a day of fasting & prayer [Jefferson was the President of the U.S.]. That is, that I should *indirectly* assume to the U.S. an authority over religious exercises which the Constitution has precluded them from" (Peterson, "Religious Freedom," p. 159). (italics in original)

But it was not only Jefferson that thought that the *church was to be protected* from the government. Others did not view the "separation" as the contemporary Supreme Court does. To wit: the armed forces have always had chaplains, "In God We Trust" is still on all U.S. currency, "One nation under God" is still a part of "The Pledge of Allegiance," and every session of Congress is opened with prayer. Even at the beginning of the Constitutional Convention, *five hours* of prayer came first.

The Bill of Rights

ARTICLE I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE II. A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.

ARTICLE III. No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

ARTICLE VII. In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The Theme is Freedom

(excerpts)

By M. Stanton Evans
Regenery Publishing Company, Washington, D. C., 1994

If we want to find the sources of our freedom, we first need to know what freedom is, as Americans have historically defined it. Our definition of freedom in these pages means *the absence of coercion* to the extent that this is feasible in organized society. It means the ability of human beings to act in voluntary fashion, rather than being pushed around and forced to do things. Someone who does something of his own volition is free; someone forced to act at gunpoint isn't. This seems an obvious enough distinction, and, in an age disgraced by the totalitarian horror, a useful one to keep in focus.

It (freedom) means, for instance, the ability to decide things on a voluntary basis, but says nothing at all about *what* will be decided. This gives freedom a status of its own, a helpful feature if we want to compare or contrast it with other values. Even so, it comes attached with a proviso: Liberty to act on one's own behalf must be fenced off by the equal liberty of others, so that freedom for one individual doesn't becomes oppression for a second. Freedom in this sense must be mutual, so as not to contradict the basic premise.

Most important for our discussion, freedom thus defined also entails a certain kind of governing system. If a regime of liberty is to exist, some agency must forestall the use of force or fraud by which one person invades another's rights, render justice in doubtful cases, and provide a zone of order in which people may go about their affairs in safety. This agency is the government. Its basic job is to maintain the equal liberty of the people, by preventing various species of aggression. Likewise, for identical and fairly obvious reasons, government also must be precluded from violating freedom. Taken together, these concepts add up to the notion of the order-keeping state, which protects its citizens from hostile forces, but is itself restrained in the exertion of its powers.

Establishing such a regime of freedom is no easy matter, as it requires a proper balance between the requirements of liberty and those of order. Government needs sufficient power to do its job, but not too much--which would endanger freedom. The dilemma was summed up by Burke: "To make a government requires no great prudence. Settle the seat of power, teach obedience, and the work is done. To give freedom is still more easy. It is not necessary to guide; it only requires to let go of the rein. But to form a *free government*, to temper together these opposite elements of liberty and restraint in one consistent work, requires much thought, deep reflection, a sagacious, powerful, and combining mind."

Similar thoughts about the topic were expressed by the Founders of our republic. Indeed, Americans will have no trouble recognizing the view of government we have been describing, since in general outline it is our own: an emphasis on voluntary action, safeguards for individual rights, limits on the reach of power. The core ideas of American statecraft have been, precisely, that government exists to provide an arena of ordered liberty, but that government in turn must be prevented from violating freedom.

★ Entrepreneurs in History ★

Purpose

The purpose of this lesson is to teach the philosophical roots of the United States of America that released the ingenuity of the individual. The biographies of Vanderbilt, Carnegie, Hill, and Rockefeller illustrate the impact of providing freedom of expression to entrepreneurs, allowing them to gain or lose economically based on the response of the market.

Objective

The student will identify the contributions of entrepreneurs from United States history.

Theme-Progress

The captains of industry were interested in economic progress for the nation. The change in industry that occurs over time is a result of the decisions people make, and laws can be written to deal with new and different issues that occur because of the progress of the nation.

NCSS Standards

IIc. identify and describe significant historical periods and patterns of change within and across cultures....
IIIg. describe and compare how people create places that reflect culture, human needs, government policy, and current values and ideals....
IVd. apply concepts, methods, and theories about the study of human growth and development....
VIg. evaluate the role of technology...as it contributes to or helps resolve conflicts.
VIIh. apply economic concepts and reasoning when evaluating historical and contemporary social developments and issues.
VIIIa. identify and describe...current and historical examples of the interaction and interdependence of science, technology, and society....
VIIIb. make judgements about how science and technology have transformed the physical world and human society and our understanding of time, space, place, and human-environment interactions.
VIIIc. analyze how science and technology influence the core values, beliefs, and attitudes of society, and how...values...shape scientific and technological change.

Time

2 class periods

Materials

- ★ Entrepreneurs in History biographies
- ★ Group Activity instruction sheets
- ★ Art supplies

Preparation

- ★ Copy biographies and group instruction sheets for individual or groups.
- ★ Gather art supplies.

Focus

Write the word "entrepreneur" on the board. Ask students to tell what they know about the word. Have them look it up in the dictionary. List examples of famous contemporary entrepreneurs and their businesses. Discuss the kinds of entrepreneurs that students might find in their own communities. Explain to students that entrepreneurial activity has contributed to the growth and prosperity of the United States throughout its history. In this lesson, students will learn about important entrepreneurs from the past that have contributed to our growth and success as a nation.

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Activity

1. Introduce the biographies to the students. Have students read the biographies either individually or in groups.
2. Divide students into groups to work, and assign or have students choose the entrepreneur they will focus on in their project.
3. Distribute the Group Activity instruction sheets. Read and discuss the instructions with the class.

Closure

Remind students that entrepreneurial activity is an important part of our history. Entrepreneurs past and present have contributed much to the growth and prosperity of our nation.

Assessment

Write an essay describing characteristics of entrepreneurs from the past that would still contribute to success in the 21st century.

Group Activity

1. Read and discuss.

Read the biography of your entrepreneur. Discuss interesting and important information with your group. Define unfamiliar vocabulary and terms. Make a list of other things you would like to know about the entrepreneur.

2. Choose a format.

Discuss with your group the format for your project. You might create a magazine article, a newspaper, a textbook chapter, or something else. As a group, agree on the format you will use.

3. Assign roles and responsibilities.

Decide who will be responsible for each part of the project. Remember to include research, writing, design, layout, artwork, graphics, editing, and any other aspects important to your project.

4. Draft design.

Do a rough draft of the design. Decide how many pages you will need. Decide where to place text, titles, pictures, and graphics. Be sure to know who will be responsible for each part.

5. Gather materials.

Gather everything you will need to create your project including any resource materials and art supplies.

6. Produce final project.

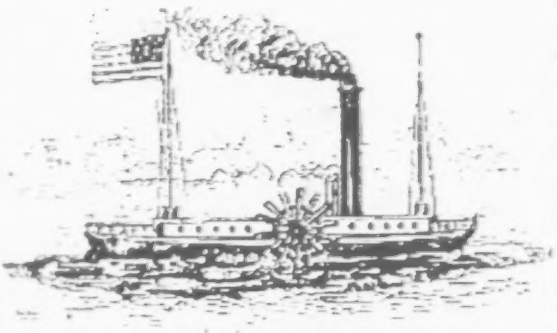
Do the actual writing and other work. Each person needs to complete the work that he or she was assigned. Begin with a rough draft of each section and work through to the final product. Be sure to check each other's work.

7. Present to class.

Decide how you will present your project to the class. Be sure to include important and interesting information about the entrepreneur you researched. If the final product can be copied, you may want to provide copies for the class.

Cornelius Vanderbilt
The Monopoly Buster
(1794–1877)

Many people know about Robert Fulton, the man who built and operated America's first steamboat, the *Clermont*. But do they know the rest of the story of how America conquered the waves? In 1817, a young man named Cornelius Vanderbilt piloted the first steamboat line to compete with Fulton's. The state of New York had granted Fulton an exclusive privilege to run steamboats on the Hudson River, but Vanderbilt and his boss Thomas Gibbons thought such a monopoly was unfair. Eluding the law for sixty days, Vanderbilt speeded passengers up and down the Hudson for fares much lower than Fulton's. As a statement of civil disobedience to the unfair law, he flew a flag that read "New Jersey Must Be Free."



Thanks to his legal challenge, the Supreme Court ruled that the law that gave Fulton a monopoly was unconstitutional. Citizens living along the Hudson hailed Vanderbilt as a hero, and he decided to leave his job as a pilot to start his own steamboat line. He constantly researched better designs that would allow his boats to run faster, last longer, and consume less fuel. As a result, he was able to charge lower rates and attract more passengers than most of his competitors. In the 1830s he cut the standard New York to Albany fare from $3.00 to $1.00, and finally to nothing! He sold meals on his boats and found he could make a better profit from full boats of hungry passengers than he could by charging for the passage. Always looking for ways to satisfy the customer better, Vanderbilt actually helped invent the potato chip to serve as a snack on his boats.

By the 1840s, boatbuilding technology had improved so much that steamboats had become steamships, many times bigger than Fulton's *Clermont* and sturdy enough to cross the Atlantic. Edward Collins wanted to be the first American to carry passengers between New York and England entirely under steam power, and he had an idea of how he might accomplish the difficult (and costly) feat. He approached Congress with an offer: for $3 million down and $385,000 a year, he would build five ships and make bimonthly trips carrying

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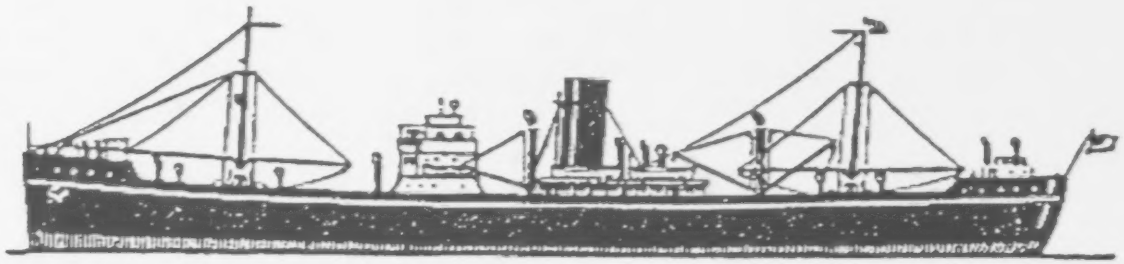
mail and passengers. This was perhaps the equivalent of a businessman today asking Congress for a few billion dollars to build his own space shuttle. But Congress was not to be outdone by the English government, which was already subsidizing an Englishman named Cunard to run a transatlantic line. They approved the deal and Collins started building an impressive fleet.

Commodore Vanderbilt watched as Collins built four luxurious steamliners (not the promised five) and started carrying wealthy passengers to England and back. He noticed that Collins' ships were poorly built (though elegant and fabulous to look at) and that they burned too much coal to be profitable, even with the government subsidies. In fact, Collins had to plead for bigger subsidies every few years in order to keep his line afloat.

This situation bothered Vanderbilt. He offered to run his own line to England with less than half of the government money Collins was accepting. But Congress did not want to admit it was wrong about supporting Collins, who lavishly dined and entertained Washington politicians on several occasions. The subsidies continued to increase. Finally, Vanderbilt decided to challenge Collins without any subsidy at all. To keep costs low he built seaworthy ships that required little maintenance and sliced through the waves without as much fuel. To keep his revenues high, he introduced low third class fares that even people of modest income could afford, so he packed his ships with passengers.

Collins became desperate. Two of his accident-prone ships sank, killing almost 500 passengers. Congress reluctantly paid him over a million dollars to build a gigantic replacement. Meanwhile, Vanderbilt continued to lower his fares and improve his service. When Collins' poorly constructed ship had to be scrapped at a $900,000 loss after only two trips, Congress finally realized their mistake. "The whole system was wrong," said Senator Robert Hunter of Virginia: "it ought to have been left, like any other trade, to competition." They revoked Collins' aid and left him to compete with Vanderbilt on his own. Says historian Burton Folsom, "Collins quickly went bankrupt, and Vanderbilt became the leading American steamship operator."

With the California Gold Rush in 1849, thousands of men headed West and Vanderbilt saw a new opportunity. With the conviction that there was more gold to be made in steamships than in the hills of California, he set out to establish a new line from New York to San Francisco. Congress had quickly forgotten any lessons that might have been learned from the Collins subsidies, and Vanderbilt found himself in competition with two heavily subsidized competitors that carried passengers and



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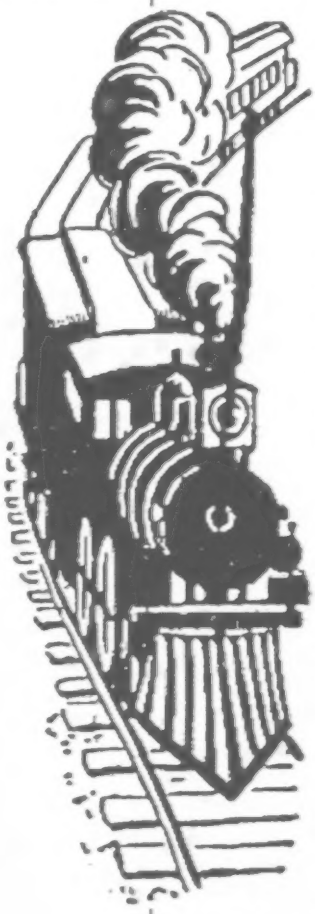
mail through the Panama Canal. He slashed his fares to one fourth of those that the subsidized lines charged and cut 500 miles off the route by building a canal through Nicaragua. Hoping to demonstrate once and for all the corruption and foolishness of using the taxpayers' money to fund inefficient enterprises, Vanderbilt was appalled to learn that the competition had successfully lobbied Congress for an 80 percent increase in their subsidy!

The Commodore was undaunted, even when political instability in Nicaragua forced him to abandon his canal. He switched to the longer Panama route and cut his fares even more aggressively. But when he was offered $672,000 by his competitors if he would quietly leave the New York-California route, he accepted the offer. This uncharacteristic move drew criticism. However, it is likely that Vanderbilt thought that this was the best way to expose the corruption of the subsidy system, since the payment he was offered was fully three-fourths of what Congress paid the other lines each year. Congress ended the subsidies when it saw the glaring contrast between Vanderbilt's efficient service to consumers and the back-room dealing the other lines engaged in at the public's expense.

It is also likely that Vanderbilt was starting to leave the steamship industry anyway because he saw a new business frontier to explore and was preparing a new stage in his career. Once the Civil War had ended, he sold his steamships and began to invest in railroads. His business philosophy remained the same: seek out markets that are poorly served by other companies and inject new competition by offering lower rates and better service. There is little doubt that he found his share of corrupt competitors, many of which tested his entrepreneurial skills to their limits.



Vanderbilt invested heavily in the Erie Railroad, run by financiers James Fisk, Daniel Drew, and Jay Gould, whose main strategy to keep the line profitable was to use politics to keep competitors at bay. Vanderbilt wanted a different approach and he began to buy up stock so that he would have a controlling interest in the Erie. Gould, Fisk, and Drew would have nothing of it and manipulated the company's stock to prevent Vanderbilt from gaining control. They "watered down" the stock by flooding the market with new illegitimate shares that Vanderbilt would have to buy up if he wanted the company. This practice was, of course, illegal, but they managed to get away with it by pulling strings in the legislature. A special law was passed that effectively legalized their action and stopped Vanderbilt's "hostile" takeover of the Erie.

Never one to be daunted by such tactics, the Commodore took a different approach. Buying up several smaller lines and building some new ones, he assembled the New York Central railroad to compete head

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to head with the Erie on the profitable New York to Chicago route. Adopting his classic tactic of undercutting the competition's rates, Vanderbilt forced the Erie to play his game. With each successive month the Central and the Erie announced new rounds of rate cuts. Each line tried to capture the market for freight and passengers and to force its competitor to relent. Soon the going rate for shipping cattle from the Chicago stockyards to New York had fallen from several dollars per head to only 25 cents. No matter how efficient they were, neither railroad was likely to have kept its rates this low for long, so when the Erie dropped its rate to 10 cents a head, Vanderbilt let them believe they had won the price war. What Gould and company soon learned, though, was that Vanderbilt had bought every head of cattle he could get his hands on in Chicago and shipped them all over the Erie—making an enormous profit, thanks to the 10 cent rate! Although the rates went back up when the Erie owners realized they had been outsmarted, they stayed much lower than before Vanderbilt's arrival in the market, and commerce between New York and Chicago prospered.

Cornelius Vanderbilt was a fearsome competitor and a tenacious businessman, but the public at large was always the beneficiary of his drive to succeed. Early in Vanderbilt's career as a boatman, the New York Evening Post dubbed him "the greatest practical anti-monopolist in the country." This in many respects describes his entire life as a businessman. If he could be said to be "ruthless" (and he was often so described) his ruthlessness was only toward those who thought to profit through inefficiency or extortion of the public. Vanderbilt's wealth was always a reward for giving the common man choices previously available mainly to the wealthier classes, including opportunities to travel to start a new life in a land of opportunity, or simply to find a market for the fruits of his labor.

Vanderbilt was not a perfect man. His manner was often vulgar and coarse and he mistreated his family, disinheriting his own son and once committing his wife to an asylum for a time following an argument. But much can be learned from his business integrity and "can-do" persistence, which defined true entrepreneurship for generations of businesspeople to come. These character traits enabled Vanderbilt to become the wealthiest man of his day, accumulating an estate worth almost $100 million. In addition to his service as an entrepreneur, he also set a precedent as a great philanthropist in his later years. Among his many endowments was one of a million dollars to establish Vanderbilt University, still one of the finest universities in the country.

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Andrew Carnegie
The Steel King

(1835-1919)

When twelve-year-old Andrew Carnegie stepped off the ship with his parents onto the bustling, chaotic streets of New York City in 1848, there was not much to distinguish him from the other 150,000 Scottish immigrants who made the arduous 50-day voyage that year. Like most of those who came, he and his family were destitute and weak from hunger, but they carried a hope of building a better life in America. His father, like the fathers of many other Scottish boys his age, was a weaver whose skills with a handloom had once commanded a respectable income; however, machines could now do the work of weavers more cheaply.

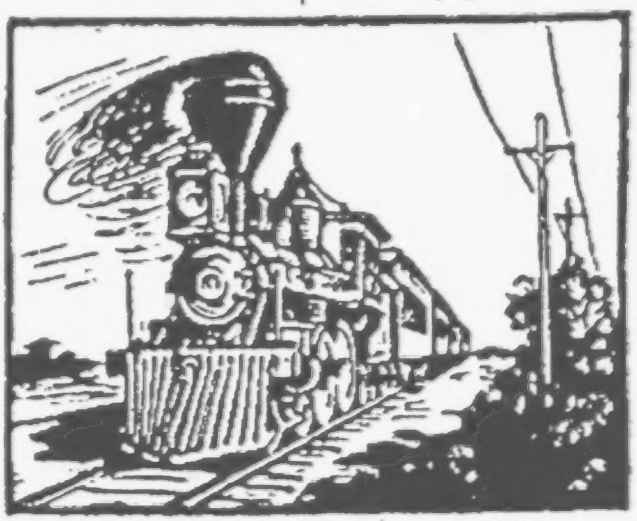
While most of the immigrants of his generation would succeed in finding economic opportunity and a better living standard in their adopted country, the young Carnegie would prove himself quite special in this regard. Where his father saw only hopelessness in the changing economy, Andy saw boundless opportunity. By the age of 28, Carnegie would have an annual income of over $48,000 (comparable to someone making $400,000 a year today). At retirement in 1901, his holdings in America's largest steel company, Carnegie Steel, would be valued at about one sixtieth of what the entire population of the United States would earn that year, and he would be called "the richest man in the world."

Andrew Carnegie defined the American dream: the belief that in an atmosphere of freedom even the poorest had a chance to succeed. What accounts for Carnegie's extraordinary success? Many of the characteristics that distinguished him as the head of Carnegie Steel can be observed in his teenage years. Within a few weeks of arriving at their destination in Pittsburgh, Pennsylvania, the young Carnegie found a job as a bobbin boy in a local textile mill for $1.20 a week. "I have made millions since," Carnegie later wrote, "but none of these gave me so much happiness as my first week's earnings. I was now a helper of the family, a bread winner." But he was determined to do better. So after a twelve-hour day tending boilers and oil vats in the mill, Carnegie took night classes in bookkeeping.

Soon he found a job as a messenger boy for a telegraph company—the first of many career moves that illustrated Carnegie's unfailing knack for recognizing new products or services that would open still greater possibilities for him in the future. The telegraph was the electronic "nervous system" of the new industrial world, much like the Internet in today's economy. In his rounds delivering telegrams, he made it his goal to learn about every business in Pittsburgh and to know the name and face of every proprietor. He spent his time in the office learning the art of telegraphy. Still a young teenager, he quickly surpassed the older operators by becoming one of the first Americans to read telegraph code by ear as it came over the line rather than by

reading the tape. Bright and observant, Carnegie soon had an encyclopedic knowledge of the commercial affairs of nearly every businessman in the city—who succeeded, who failed, and how it all happened—since this information passed through his hands daily. At the same time he continued his schooling, studying history at night and reading the classics on the weekends.

If the telegraph was the nervous system of the new American economy, its circulatory system was the railroads. Railroads pumped workers and capital from the cities to the countryside while raw materials circulated from the countryside back to the cities. It wasn't long before Carnegie was working as a telegraph operator for the western division of the Pennsylvania Railroad, where he caught the eye of its superintendent, Tom Scott. One morning, Carnegie arrived early at the office to find that a derailment had brought all rail traffic to a standstill. Scott had not appeared yet, so the nineteen-year-old operator quickly sized up the situation and fired off several orders that got the traffic moving again. Only the superintendent was authorized to give such orders, so he signed the messages "T.A.S." When Scott arrived at the office he was shocked to realize that the young man not only had mastered the telegraph operations, but also had a mental blueprint of every track, siding, switch, and station on the most sophisticated railroad operation in the country. Within a year, Carnegie was regularly entrusted with the operation of the railroad and was rapidly becoming indispensable to his boss.



Scott taught the young Carnegie some important lessons about business and money. Businesses in those days were mostly run according to traditions and rules of thumb. Railroads were far too complex and far-flung to operate on such a basis, as shown by the many railroads that failed in the early years of the industry. The Pennsylvania's success lay in its care to record every revenue and expenditure in minute detail so that business practices and performance could constantly be evaluated and improved. Scott used the data to promote and fire supervisors as well. Those who found ways to reduce costs were rewarded with higher pay and greater responsibility, while those who failed to do so were told to find a way to save money or to get a new job. When Carnegie formed his own company later in life, he was well-known for rewarding workers for their productivity without regard for their family background or the length of time they had been employed by him. Anyone who was alert, hard working, and creative in dealing with problems had the opportunity to excel in this environment. Charles Schwab, a poor but ambitious young immigrant who started as a dollar-a-day stake driver in one of Carnegie's steel mills, became an assistant

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to the supervisor in six months, and a partner in the company soon after that.

Carnegie's time with the Pennsylvania Railroad taught him another principle that contemporaries like Cornelius Vanderbilt and John D. Rockefeller were learning. Profits were made not by charging the highest price the market would bear, but by keeping prices low and demand high. Whether he was running trains or blast furnaces, this idea helped him to "run them full and run them fast" so that he got the most out of his investment. While some entrepreneurs of his day tried to form "pools" to reduce competition and keep prices high, Carnegie typically foiled their plans by "scooping the market" and stealing their customers with his low prices. He was among the first businesses to hire scientists to perform research and development in order to be able to offer the best products and services at the lowest prices.

Carnegie was not only an extraordinary businessman but was also a brilliant capitalist. By 1865, when he was offered the position of general superintendent to the entire Pennsylvania Railroad system, he had parlayed his money into investments that paid him an annual income many times the amount of his salary with the railroad. He resigned from the railroad and for a time devoted his attention to financing other peoples' ventures. Although he was successful at finance, Carnegie wanted to be making things himself, not merely profiting from helping others to make things.

After successful, but short-term experiments in oil, railroading, bridge-building, and iron, it was steel that would become Carnegie's life—steel for rails, steel for shipbuilding, and steel for constructing the new buildings that were reaching for the sky. His tireless attention to cost-cutting and endless innovation made Carnegie Steel a formidable competitor that soon became the largest steel company in the world. His motto was "mind the costs and the profits will take care of themselves." He expected—and rewarded—creativity in discovering new ways to make better steel with less waste. Employees who proved themselves to be problem-solvers were not only promoted; they were made partners in the company—a practice unheard of in the corporate America of his day.

Carnegie's attitude toward wealth was also unusual. He rarely allowed Carnegie Steel to pay dividends to him or any of the other stockholders, despite the enormous profits that were generated by the company's efficiency and creativity. Instead, these profits were plowed back into the company to buy better equipment and acquire new facilities. Carnegie was far more interested in becoming the best steelmaker the world had known than to lead a life of extravagant leisure. To a large extent, it was his love of the process of making money, not the love of the money itself, which made him such a success.

Most surprising to the workers and businessman of his day, Carnegie was a vocal champion of labor rights. In his day, labor unions were widely considered to be dangerous intrusions on the rights of factory owners. If workers went on strike to demand higher wages or shorter hours, it

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was normal for owners to hire new workers rather than to negotiate with the unions. Carnegie wrote that workers had as much right to organize as did businessmen, and publicly objected to the practice of breaking strikes by hiring new workers. He invented the concept of profit sharing as a method of encouraging productivity and maintaining harmony between his own workers and the Carnegie Steel partners. This is not to say he was soft in his bargains with labor, however. High wages were reserved for those who performed exceptionally—they were not a right that anyone could claim, certainly not by striking or threatening violence as some workers were doing elsewhere. If workers went on strike, Carnegie instructed his men to lock the plant down and wait until the workers were ready to accept a settlement on his own terms. Such a policy toward labor seems harsh by comparison with modern labor relations, but in the 19th century Carnegie's willingness to lose hundreds of thousands of dollars during a shutdown rather than hire strikebreakers was considered extraordinary.

Unfortunately, as much as Carnegie wanted to be admired for his enlightened attitude toward labor, he did not always demonstrate the courage of his convictions. His idealistic publications and speeches were an embarrassment to many of his partners who considered his views to invite more labor trouble. When a strike occurred at the Homestead steelworks, Carnegie was travelling abroad, and Chairman Henry Clay Frick handled the dispute in his own way. Frick hired 300 armed guards from the notorious Pinkerton Detective Agency to help bring in replacement workers—apparently with Carnegie's support. When the strikers were tipped off about Frick's action, a violent clash between the Pinkertons and the strikers erupted. Three strikers and seven Pinkertons were killed, and dozens of other guards were savagely beaten when they tried to enter the factory. The violence of the strikers dampened public sympathy for the labor movement, but the greatest target of public anger was Carnegie, who was viewed as a hypocrite and a moral coward.

Carnegie was deeply hurt, both by the appalling violence of the fight and by his own disgrace in the public eye. Only when he took his most extraordinary step many years later did the public again remember him for his benevolence rather than for the Homestead incident. When Carnegie Steel had reached the peak of its success, Carnegie fulfilled a promise he had made many years earlier. He sold his entire controlling interest in Carnegie Steel to financier J. P. Morgan, left business completely, and occupied himself full-time with philanthropy. Carnegie never touched the money he made in the sale of Carnegie Steel. As he had promised, he gave every penny of it away to the worthiest causes he could find. Carnegie built many dozens of university buildings, concert halls, and churches, but free libraries especially appealed to his belief in self-improvement and were among the greatest recipients of his generosity. In the end, his fondest hope was that others would be able to share the American dream—a dream that Carnegie himself had pioneered.

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James J. Hill
The Empire Builder

(1838–1916)

The story of the first transcontinental railroads is a dramatic tale that is familiar to many. Two great railroad lines—the Union Pacific building from the East and the Central Pacific building from California—laid thousands of miles of track, battling marauding Indians, brutal weather, rugged mountains, and each other. Despite enormous obstacles, the two lines met at Promontory Point, Utah, and celebrated the completion of America's first transcontinental railway by driving a golden railroad spike. The western frontier opened up as a place for Americans to find new opportunity and led to great economic growth in the 20th century.

This story also has a darker, less noble side: the notorious graft, corruption, and waste of the Union Pacific and Central Pacific defrauded the public and poisoned national politics for decades to come. Leaders of both companies collected millions of dollars in government subsidies and land grants and then constructed elaborate schemes to pour the money into their own pockets rather than into the operation of the railroads. Despite the fact that federal subsidies attracted more quick-buck artists than good railroad men, many historians argue that government support was necessary if the first transcontinental railroad was ever to be built. Corruption and greed were simply the price of having a "free market" system—and justification for even more government intervention in the economy.

This argument ignores the fact that government financing and regulation kept the first transcontinentals from operating in anything remotely like a free market. But even more so, it ignores the history of America's most successful transcontinental railroad and its founder James J. Hill. Hill's Great Northern Railroad was constructed without the aid of subsidies or land grants from the government, and according to historian Burton Folsom, it was "the best built, the least corrupt, the most popular, and the only transcontinental never to go bankrupt." How did Hill accomplish with his own resources what others backed by the vast power of the federal government could not?

Hill's story says a great deal about how a free market system really works and the kind of character required to succeed in such a system. Born in a log cabin in Ontario, Canada, and beset by the early death of his father, the young James supported his mother with a $4.00-a-month job at a grocery store. After losing the use of his right eye in an accident, most would have said that his prospects for success were rather bleak, but he was a risk-taker with a knack for creating his own opportunities.

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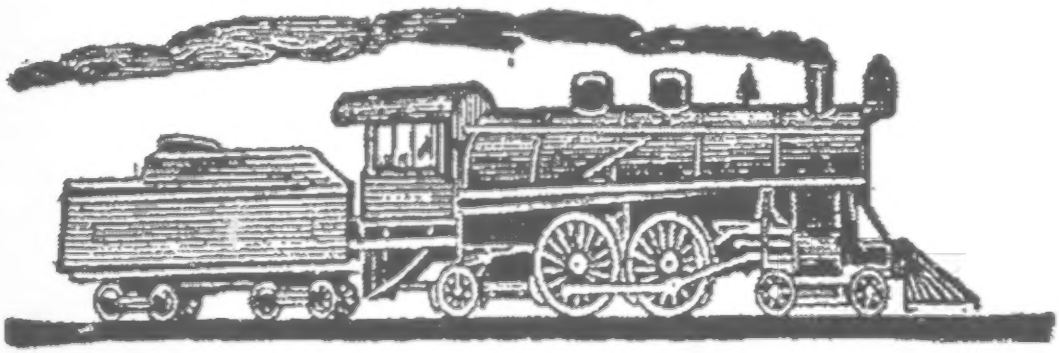
At age 17, he set out to seek his fortune as a trader and adventurer in the Orient. At first, his ambitious plan met with predictable obstacles and he found himself standing with empty pockets on a street in St. Paul, Minnesota, instead of the deck of a ship to Shanghai. So, in St. Paul he took a job as a shipping clerk and began to learn the transportation business.

Hill learned to buy and sell goods at a profit, soon recognizing that finding cheaper ways to move them to market allowed him to set attractive prices for customers while doing well for himself. With the money he began to save, Hill invested first in shipping and then in steam ships, but soon it was the railroad business that caught his imagination. Working as an agent for the struggling St. Paul and Pacific Railroad, he saw the possibility of fueling train engines with coal instead of wood. Soon he found a partner to start a successful fuel, freighting, merchandising, and warehouse company. Hill discovered that he had a talent for recognizing opportunities in the transportation business.

In 1878, he made a fateful leap. With the help of some Canadian friends, Hill bought the now bankrupt St. Paul and Pacific Railroad from a group of European bondholders who were happy to get back even a fraction of their original investment in the failed enterprise. Consisting of scarcely ten miles of patched together track, the St. Paul and Pacific had no better chance of reaching its destination in Winnipeg, Canada than it did of reaching the moon—or so thought the critics, who dubbed it "Hill's Folly" when they learned of his intention to complete it. Undaunted, Hill bought rails, rolling stock, and locomotives with the seed capital he and his partners had invested. He hired workers and personally supervised them much of the time. With Hill driving them on, the workers laid more than a mile of track a day, reaching a branch line from Winnipeg in only a year. Two years of good harvests and burgeoning immigration from Norway and Sweden helped the new line to prosper, but Hill had already set his sights on a bigger goal. He took his crews west into North Dakota with plans to eventually reach the pacific coast.

Hill had a three-part business strategy that set him apart from other railroad builders. First, he saw that the success of his business depended on the success of the farms and towns along his



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route. So he actively invested in building the exports of each new community he linked to his line before moving farther west. The Northwest was cold, dry, and barren—part of what pioneers called the Great American Desert. Hill was not building his line toward thriving communities with warehouses of grain ready to be shipped—he had to help create these communities with each new length of track he laid. So he offered passage to immigrants for only $10 on the understanding that they would settle along his route. Then he invested his own funds to give them every possible advantage for success. From what he learned on experimental farms that he established, Hill promoted the best farming techniques of the day. He also supplied new settlers with free cattle, seed, and fertilizers. "You are now our children," Hill would tell them, "but we are in the same boat with you, and we have got to prosper with you or we have got to be poor with you."

Logo, 1895

The second part of his business strategy was a commitment to durability and long-run efficiency in everything he did. He paid extra to import the highest quality Bessemer rails from Europe, knowing that the strongest rails would cut costs in the long run, resulting in a more efficient, smooth-running line. Long before his line reached the Rocky Mountains, Hill had men searching the mountains for the route that would yield the best gradient with the least curvature. Rediscovering the legendary Marias Pass, first described by the Lewis and Clark expedition in 1805, he cut almost one hundred miles off his route through western Montana. Later, Hill's care in finding the shortest, flattest route would pay off by cutting the time required to ship goods and passengers between the coasts.

Finally, a major difference between Hill's strategy and that of his competitors to the south was that Hill refused to seek government aid in building his railroad. The Union Pacific, Central Pacific, and Northern Pacific all received millions of dollars in capital from the taxpayers, in addition to enormous grants of public land. Hill paid cash for the right-of-way he used and criticized those who wanted taxpayers to foot the bill for the land and capital they required. He knew that their attention to politics rather than the efficient operation of their railroads would ultimately be their undoing—and he was right. When a sharp depression hit the nation in 1893 it was Hill's line, now called the Great Northern Railway Company, that best weathered the economic storm. The UP, the NP, and the Santa Fe railroads all went bankrupt. Meanwhile, Hill continued to cut his costs and supply the most competitive rates.

Not only did Hill receive no aid from the government, but the legislature was even used as a weapon against him by his less-scrupulous competitors. The Northern Pacific, a federally funded transcontinental run by Henry Villard, had a special dispensation to pass through Indian land. Hill had no such privilege, and though he was willing to pay fair market value to the Indians for the right-of-way, he had to seek permission from Congress first. Villard and others urged their supporters in Congress to block Hill by denying him the right-of-way, and succeeded in delaying him several times on this issue. Hill later wrote, "It really seems hard, when we look back at what we have done in opening the country and carrying at the lowest rates, that we should be compelled to fight political adventurers." who have never done anything but pose and draw a salary."

Hill never lost his youthful desire to become a modern-day Marco Polo, fostering trade between the West and exotic East Asia. When the Great Northern finally reached the west coast of the United States, he put his mind to how this might be done. In 1900, he plowed six million dollars of his earnings from the railroad into the Great Northern Steamship Company, which established routes between Seattle, Japan, and Hong Kong. His goal was to sell midwestern wheat, Southern cotton, and New England textiles in Asia. His "pump-priming" philosophy made him enormously successful. He shipped these products at drastically reduced rates—sometimes for free—to convince the Chinese and Japanese to try these unfamiliar Western products. As a result of this aggressive marketing, exports to Japan increased seven fold in only nine years. Many of the products he carried over his railroad and steamship lines were items that could not possibly have been sold competitively had he not been willing to offer lower rates to encourage these markets.

Unfortunately, Hill's competitors did not view this success with the same appreciation as the farmers and manufacturers whose businesses benefitted. Unable to match his efficiency in the free marketplace, they sought to defeat him again in the political arena. The Interstate Commerce Commission and the Sherman Anti-trust Act were laws that had been enacted to thwart monopolists and the high rates they were able to impose on the public. Despite the fact that Hill built his shipping empire by continually cutting his rates, these laws were now used to prevent Hill from offering special rates in certain markets and from buying up new lines to add to his railroad. The ICC forced him to give all shippers anywhere the same special discounts he was offering the Asians to capture their business. He could not afford these discounts, so he eventually sold his ships and almost completely abandoned the trade with Asia.

"...success in business for oneself often requires first creating opportunities for others to be successful."

Despite these setbacks, by the end of his life James Hill could truly be judged the hero in the story of the transcontinental railroads. His example demonstrated a principle that still bears greater attention today: that success in business for oneself often requires first creating opportunities for others to be successful. In building America's best-run railroad, Hill never lost sight of this principle.

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John D. Rockefeller
Champion for Cheap Oil

(1839-1937)

John D. Rockefeller was almost a billionaire during a time when a dollar was worth many times what it is today. He has been ranked as the wealthiest man in American history. At its peak, his company Standard Oil owned 90 percent of the oil refining capacity in the United States and controlled nearly every aspect of its business from exploration to delivery of the final product. Rockefeller has been both admired and vilified for his success. Was he a "robber baron" who enriched himself by unfairly monopolizing the industry and forcing consumers to pay him tribute? Or was he a hero that put heat and light within reach of the common man through unparalleled efficiency and entrepreneurial vision?

Rockefeller certainly did not begin life with any special advantages. His father was a peddler who had difficulty supporting a wife and six children, of which John was the eldest. Rockefeller learned the value of hard work and saving from his father, while his mother gave him an enduring religious faith that under-girded his sense of fairness and desire to help others throughout his life. At age 16, he got his first job in Cleveland, Ohio as an assistant bookkeeper for 50 cents a day. He quickly gained a reputation as an honest and methodical businessman. By age 19 he had started his own business shipping grain on Lake Erie.

In the early 1860s, Rockefeller became fascinated with the booming oil industry that was centered in northwest Pennsylvania, not far from Cleveland. In 1855, a chemist named Benjamin Silliman had discovered that the sticky black goo could be distilled and purified to produce kerosene, a substitute for whale oil, which was the major illuminant used in lamps at the time. When "Colonel" Edwin L. Drake succeeded in drilling the first oil well in 1859, the new industry sprung up like a Pennsylvania gusher. Drilling equipment was cheap and oil land abundant, so prospectors soon cluttered the area with derricks, pipes, and tanks. Some became rich, some were ruined, and many met both fates in rapid succession. Rockefeller was more interested in how the oil might be refined and turned into useful products than in the wildly speculative drilling business. So he found a partner named Samuel Andrews and together they built their first refinery.

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Refining oil was not without its financial risks. Although the equipment was not complicated or expensive in the early 1860s, the price of the product fluctuated wildly from less than a penny a gallon to as much as 33 cents. When prices were high, new refineries sprung up everywhere, but when prices fell, many of these hastily constructed operations failed. Rockefeller was convinced that he and Andrews could weather these stormy markets by keeping costs down and eliminating waste. Since kerosene and lubricants were the most valuable products of the distilling process, many refiners threw away the "waste" products such as gasoline, naphtha, tar and paraffin. On a few occasions the Cuyahoga River became so polluted with refinery waste that it ignited and burned for days. Rockefeller and Andrews deplored this aspect of the business and found ways to turn these wastes into products that could be profitably sold.

By 1870, Rockefeller and Andrews had become the largest refiners in Cleveland. They took on new partners, reorganized the business, and named it Standard Oil. Under Rockefeller's leadership, they followed a business strategy that focused on continually improving the efficiency of turning crude oil into valuable products and services. As the business became more profitable, most of the profits were plowed back into better equipment and personnel. Especially important to Standard were the researchers who developed three hundred useful by-products of oil, ranging from paints and varnishes, to anesthetics.

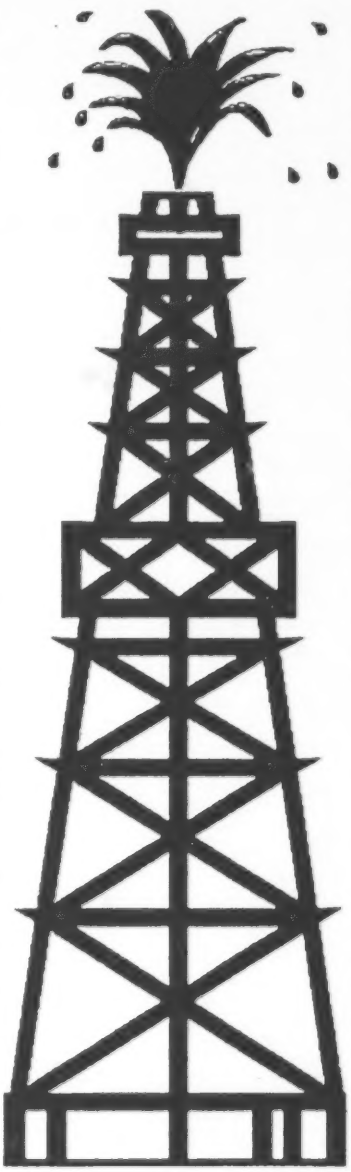
Rockefeller concentrated on finding ways to cut the cost of producing and marketing their main product, kerosene. Inventing cheaper ways to make strong barrels, building machinery that required less maintenance, or developing a method to extract a little more kerosene from each barrel of crude—these were all a regular part of doing business for Rockefeller. Each time Standard lowered its production costs, it passed the savings on to consumers in order to expand its market. This growth, in turn, allowed Standard to take advantage of certain "economies of scale." The railroads that shipped the oil, for example, customarily offered special rebates to those who made large, regular shipments. This practice, which dated back to the earliest days of the oil industry, reflected the fact that large, predictable shipments were cheaper for the railroads than smaller, less predictable ones. It also reflected the desire by railroaders such as Cornelius Vanderbilt to attract the business of high-volume shippers. Standard was the largest shipper and also provided its own loading and unloading services, so Vanderbilt extended it the biggest rebates.

Rockefeller's success has sometimes been attributed to the "unfair" advantage he had over his competitors in shipping his product—an advantage that some historians argued almost assured him a monopoly position in his market. Certainly it was difficult for many smaller refiners to compete with a company that was able to sell at continually lower prices and still make a profit. Some went out of business and many sold their refineries to Rockefeller and went to work for Standard, which always paid well for talent and hard workers.

The claim that Standard succeeded because of unfair competition and could, as one history text put it, "crush any remaining competitors at will," overlooks many important facts, though. In the first place, Rockefeller did not receive the best rates from the railroads until after he had already beaten the competition in the efficiency

game, playing on a level field. Secondly, Standard never occupied a position in the market where an increase of more than a penny or two in the price of its product couldn't have turned the market over to formidable competitors overseas. Standard was only able to maintain its dominant position through steady improvements in its product, its service, and its prices.

In the early 1880's, when Standard had either built or bought most of the refining capacity in the country, Rockefeller faced the greatest challenge of his career. Difficulties seemed to come from every direction. First of all, the Pennsylvania oil fields were running dry, and the discovery of oil fields on the Texas Gulf Coast was still many years away. Electricity was beginning to compete with kerosene as an illuminant, thanks to the inventions of Thomas Edison. Few at this time suspected that the gasoline engine would be the power source of the future. As if these were not enough trouble for Standard, the Russians had discovered the richest oil field in the world and were beginning to export it cheaply throughout Europe, one of Standard's largest markets. So daunting were these challenges that many predicted the demise of the American oil industry. Even loyal officers of Standard starte of their stock in the company.



Rockefeller knew that new oil had been found near Lima, Ohio, but the oil contained so much sulfur that it stank like rotten eggs, making it completely unusable. Many chemists had tried to purify the oil, but none had succeeded. Nevertheless, Rockefeller staked Standard's future on the Lima fields, buying leases and stockpiling more than 40 million barrels of the worthless oil. Even Standard's Board of Directors was skeptical and voted against Rockefeller's proposal to expand investment in that region. Rockefeller replied, "Very well, gentlemen. At my own personal risk, I will put up the money to care for this product: $2 million—$3 million, if necessary." His willingness to risk his own money persuaded the board to support him, and the search for a way to clarify the sour oil went on with feverish intensity.

The secret to clarifying the oil was finally uncovered, cries of "Eureka" went up, and the Lima oil changed overnight from useless sludge to black gold. But this alone was not enough to meet the Russian challenge. The Russian wells in Baku produced on average 280 barrels per well per day, compared to the 4.5-barrel average of American wells. The Baku oil was easier to refine and much nearer to the European markets, but Europe was not the only concern: the enormous natural

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advantages possessed by the Russians raised questions about whether Standard would even be able to hold on to the American market.

Standard had to watch every cost without sacrificing the reputation for quality that was one of the few advantages they held over the Russians. Rockefeller's engineers and scientists perfected the steamship oil tanker, invented "cracking" technology to extract even more useful product from a barrel of crude, and implemented dozens of cost-saving innovations. His men studied the foreign markets and spied on the competition to ensure that the quality, price and service provided by Standard Oil was appropriate to local demands and surpassed what his competitors were offering.

"By the time of his death at age 98, Rockefeller had given away about $550 million—more money than any American before him had ever owned."

The battle with Russian oil lasted almost 30 years. Standard finally won the war by meeting the low prices of the Baku product while providing higher, more consistent quality than his less efficient competitors could match. Rockefeller reminded his partners that "we are refining oil for the poor man, and he must have it cheap and good." They succeeded impressively in pushing oil prices down from 58 cents to eight cents a gallon. When Rockefeller entered the scene, burning lamps to read, work or socialize by in the evenings was a luxury for the rich—working class people simply went to bed when it got dark. When Standard reached the peak of its dominance even the poor could afford the one cent an hour it cost to light their homes. It is doubtful that the automobile could have been much more than a novelty for the upper class except for Rockefeller's tireless efforts to cut costs and boost efficiency.

Rockefeller's contribution to society didn't end with his entrepreneurial genius. He was the greatest philanthropist the world had ever known. By the time of his death at age 98, Rockefeller had given away about $550 million—more money than any American before him had ever owned. This generosity wasn't a trait that emerged only in his later, wealthier years, however. Giving had been a way of life for Rockefeller from his very first $2.50 paycheck at age 16. Perhaps his greatest legacy is not his $900,000,000 net worth, but the enormous impact he had on the quality of life experienced by millions of others.

Additional Readings

★ Chernow, Ron. *Titan: The Life of John D. Rockefeller, Sr.* New York: Random House, 1998.
★ Folsom, Jr., Burton W. *The Myth of the Robber Barons.* Herndon, VA: Young America's Foundation, 1991.
★ Nevins, Allan. *Study in Power: John D. Rockefeller.* New York: Charles Scribner's Sons, 1953.

★ The American's Creed ★

Purpose

The purpose of this lesson is for students to gain an understanding of the creed that was written in response to a contest to provide a summary of the fundamentals of American history and tradition. The American's Creed provides a summary of the freedoms and history of the nation.

Objective

The student will be able to discuss the elements of American history and tradition found in the American's Creed.

Theme-Responsibility

Citizens have both personal and civic responsibilities which need to be recognized and upheld. The American's Creed is a citizen's statement of his or her responsibility, care, and service for our nation.

NCSS Standards

IVa. articulate personal connections to time, place, and social/cultural systems.
Xa. explain the origins and interpret the continuing influence of key ideals of the democratic republican form of government....
Xd. practice forms of civic discussion and participation consistent with the ideals of citizens in a democratic republic.
Xh. evaluate the degree to which public policies and citizen behaviors reflect or foster the stated ideals of a democratic republican form of government.

Time

2 class periods

Materials

- ★ The American's Creed reading
- ★ Dictionaries
- ★ Poster paper, tape and glue

Preparation

- ★ Copy handouts
- ★ Arrange a location in the community to post the posters.

Focus

Students will gain an understanding of the American's Creed and the ideas represented within it. The creed was commissioned as a tool to be used to reinforce the freedoms of the nation at a time when half of the world was at war. The creed is not an official government document, but it was created as a gift to the nation by the people of Baltimore, Maryland.

Activity

Students divide into four groups, and each group creates a paragraph that represents a brief summary of American political faith as it is founded upon the fundamentals of American history and tradition. Students will read, compare, and explain their creed to the other class members. Ask students to make a comparison between the creed they write and the version by William Tyler Page.

Closure

Students can enter into a discussion about the creed and identify an order of importance for the ideas and principles expressed in it.

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The American's Creed

In 1916, when half the world was at war, there were many in America who believed that citizens should think more about their blessings, privileges, and obligations as Americans. By 1917, magazines and newspapers from coast to coast were announcing a contest for the writing of the best national creed, a "brief summary of American political faith . . . founded upon the fundamentals of American history and tradition."

In March, the city of Baltimore offered the prize of $1,000 for the winning creed. Every state in the Union responded. In all, 3,000 entries were submitted. Judges chose a 100 word creed by William Tyler Page compiled from phrases found in American documents and in the words of American patriots.

The American's Creed
by William Tyler Page, 1918

I believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic, a sovereign nation of many sovereign States; a perfect union one and inseparable; established upon those principles of freedom, equality, justice, and humanity for which American patriots sacrificed their lives and fortunes. I therefore believe it is my duty to my country to love it, to support its constitution, to obey its laws, to respect its flag, and to defend it against all enemies.

Appel, David H., ed. *An Album for Americans: A Treasury of American Patriotism.* New York: Triangle Publications, Crown Publishers, 1983, pp. 132 and 170.

★ The United States Flag ★

Purpose

The purpose of this lesson is for students to gain an understanding that the American flag is both a symbolic representation of the historical founding of the United States and a representation of freedoms earned by its citizens. The United States flag is a symbol known around the world representing the freedoms and ideas of our nation.

Objective

1. The student will be able to discuss the importance and meaning of freedom represented by the United States Flag.
2. The student will examine and practice elements of the United States Flag Code.

Theme-Freedom

The flag represents the freedom provided to all citizens of the fifty states. The flag serves all of the people of the nation as a common symbol that represents anywhere in the world our collective presence. The flag represents the freedoms earned by the citizens through conflict and persuasion.

NCSS Standards

Ve. describe and examine belief systems basic to specific traditions and laws in contemporary and historical movements.
IXa. explain how language, art, music, belief systems, and other cultural elements can facilitate global understanding....
Xa. explain the origins and interpret the continuing influence of key ideas of the democratic republican form of government.
Xd. practice forms of civic discussion and participation consistent with the ideals of citizens ina democratic republic.
Xj. participate in activities to strengthen the "common good," based upon careful evaluation of possible options for citizen action.

Time

2 class periods

Materials

- ★ The U. S. Flag reading and Flag Code
- ★ Poster paper, tape, glue, and dictionaries
- ★ Two or three U.S. flags

Preparation

- ★ Copy handouts
- ★ Find a location in the community where students can hang their posters.

Focus

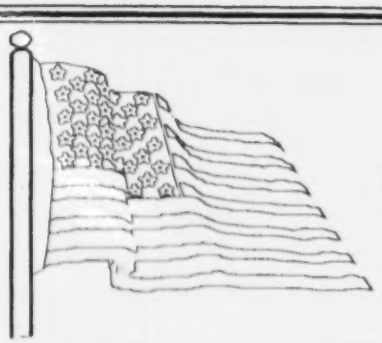
Students gain an understanding of the rules that regulate the display of the American flag as it represents the freedoms of the nation. The rules for display of the flag are designed to provide and maintain a standard of respect for this national symbol and for the people who have died fighting for the freedoms that it represents.

Activity

Students divide into pairs and take one of the sections of the flag code to read and explain to the other class members. Ask each pair of students to make a drawing that represents the section of the flag code which they were assigned to learn. The pairs can share their flag code posters with others and post them around the building or community.

Closure

Students can enter into a discussion about the freedoms that the flag represents. Ask the students to create a drama about and/or including the display of the flag.



The United States Flag

The flag of the United States is a **symbol** of our country. To **salute** the flag and to say the **Pledge** of **Allegiance** are ways of showing **patriotism**. The colors, number of stars, and number of stripes are all **significant** because they tell about the history of the United States and what Americans **value**.

The first flag had thirteen red and white stripes with thirteen white stars on a field of blue to **represent** the original thirteen **states**. When two new states were added in 1792, the flag was changed to fifteen stripes and fifteen stars. Since 1818, the flag has had thirteen stripes which represent the original thirteen states, and only stars have been added for new states. The colors used in the national flag are significant. White stands for **purity**, blue for **perseverance**, and red for **valor**.

The United States flag was given the nickname "Old Glory" by William Driver. Driver lived in Tennessee during the Civil War. When Union forces captured the **capitol** in Nashville, Driver said, "Thank God, I have lived to raise Old Glory over the capitol of Tennessee."

Group Activity

Step 1: Each person in the group will read part of the story above to other members of the group.

Step 2: Each person will use a dictionary to write definitions for at least three bold words. Every bold word must be defined by at least one member of the group.

Step 3: When the group is finished defining all the bold words, each student will read aloud their definitions to the others in the group.

Step 4: Discuss as a group why you think purity, valor, and perseverance are qualities that might represent the American people. Also discuss why it is important for citizens to show respect for the flag. Report to the class the meaning of the number of stars, stripes, and colors of the flag and how they are symbols of our nation.

Federal Flag Code

Source: Veterans of Foreign Wars Americanism Department

The following document is known as the Federal Flag Code. It prescribes proper display of and respect for the United States Flag. This code does not impose penalties for misuse of the United States Flag. Enforcment of the code is left to the states and to the District of Columbia. Each state has its own flag law. The Federal Flag Code is the guide for all handling and display of the Stars and Stripes. Here is the code in its entirety:

PUBLIC LAW 94-344
94th CONGRESS, S. J. Res. 49
July 7, 1976

JOINT RESOLUTION

To amend the joint resolution entitled "Joint resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,
That the joint resolution entitled "Joint resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America," as amended (36 U.S.C. 171-178), is amended —

SEC 1 That the following codification of existing rules and customs pertaining to the display and use of the flag of the United States of America be, and is hereby, established for the use of such civilians or civilian groups or organizations as may not be required to conform with regulations promulgated by one or more executive departments of the Government of the United States. The flag of the United States for the purpose of this chapter shall be defined according to title 4, United States Code, Chapter 1, section 1 and section 2 and Executive Order 10834 issued pursuant thereto.

SEC 2 (a) It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, when a patriotic effect is desired, the flag may be displayed twenty-four hours a day if properly illuminated during the hours of darkness.

(b) The flag should be hoisted briskly and lowered ceremoniously.

(c) The flag should not be displayed on days when the weather is inclement, except when an all-weather flag is displayed.

(d) The flag should be displayed on all days, especially on:

New Year's Day	January 1
Inauguration Day	January 20
Lincoln's Birthday	February 12
Washington's Birthday	Third Monday in February
Easter Sunday	Variable
Mother's Day	Second Sunday in May
Armed Forces Day	Third Saturday in May
Memorial Day (half-staff until noon)	Last Monday in May
Flag Day	June 14
Independence Day	July 4
Labor Day	First Monday in September
Constitution Day	September 17
Columbus Day	Second Monday in October
Navy Day	October 27
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25

and such other days as may be proclaimed by the President of the United States; the birthdays of States (date of admission); and on State holidays.

(e) The flag should be displayed daily on or near the main administration building of every public institution.

(f) The flag should be displayed in or near every polling place on election days.

(g) The flag should be displayed during school days in or near every schoolhouse.

SEC 3 That the flag, when carried in a procession with another flag or flags, should be either on the marching right; that is, the flag's own right, or, if there is a line of other flags, in front of the center of that line.

(a) The flag should not be displayed on a float in a parade except from a staff, or as provided in subsection (i).

(b) The flag should not be draped over the hood, top, sides, or back of a vehicle or of a railroad train or a boat. When the flag is displayed on a motor car, the staff should be fixed firmly to the chassis or clamped to the right fender.

(c) No other flag or pennant should be placed above or, if on the same level, to the right of the flag of the United States of America, except during church services conducted by naval chaplains at sea, when the church pennant may be flown above the flag during church services for the personnel of the Navy. (See Public Law 107, page 4.)

(d) The flag of the United States of America, when it is displayed with another flag against a wall from crossed staffs, should be on the right, the flag's own right, and its staff should be in front of the staff of the other flag.

(e) The flag of the United States of America should be at the center and at the highest point of the group when a number of flags of States or localities or pennants of societies are grouped and displayed from staffs.

(f) When flags of States, cities, or localities, or pennants of societies are flown on the same halyard with the flag of the United States, the latter should always be at the peak. When the flags are flown from adjacent staffs, the flag of the United States should be hoisted first and lowered last. No such flag or pennant may be placed above the flag of the United States or to the United States Flag's right.

(g) When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in times of peace.

(h) When the flag of the United States is displayed from a staff projecting horizontally or at an angle from the window sill, balcony, or front of a building, the union of the flag should be placed at the peak of the staff unless the flag is at half-staff. When the flag is suspended over a sidewalk from a rope extending from a house to a pole at the edge of the sidewalk, the flag should be hoisted out, union first, from the building.

(i) When displayed either horizontally or vertically against a wall, the union should be uppermost and to the flag's own right, that is, to the observer's left. When displayed in a window, the flag should be displayed in the same way, with the union or blue field to the left of the observer in the street.

(j) When the flag is displayed over the middle of the street, it should be suspended vertically with the union to the north in an east and west street or to the east in a north and south street.

(k) When used on a speaker's platform, the flag, if displayed flat, should be displayed above and behind the speaker. When displayed from a staff in a church or public auditorium, the flag of the United States of America should hold the position of

superior prominence, in advance of the audience, and in the position of honor at the clergyman's or speaker's right as he faces the audience. Any other flag so displayed should be placed on the left of the clergyman or speaker or the right of the audience.

(l) The flag should form a distinctive feature of the ceremony of unveiling a statue or monument, but it should never be used as the covering for the statue or monument.

(m) The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. On Memorial Day the flag should be displayed at half-staff until noon only, then raised to the top of the staff. By order of the President, the flag shall be flown at half-staff upon the death of principal figures of the United States Government and the Governor of a State, territory, or possession, as a mark of respect to their memory. In the event of the death of other officials or foreign dignitaries, the flag is to be displayed at half-staff according to Presidential instructions or orders, or in accordance with recognized customs or practices not inconsistent with law. In the event of the death of a present or former official of the government of any State, territory, or possession may proclaim that the National flag shall be flown at half-staff. The flag shall be flown at half-staff:

- thirty days from the death of the President or a former President
- ten days from the day of death of the Vice-President, the Chief Justice or a retired Chief Justice of the United States, or the Speaker of the House of Representatives
- from the day of death until interment of an Associate Justice of the Supreme Court, a Secretary of an executive or military department, a former Vice-President, or the Governor of a State, territory, or possession
- on the day of death and the following day for a Member of Congress.

As used in this subsection:

1. the term 'half-staff' means the position of the flag when it is one-half the distance between the top and bottom of the staff;
2. the term 'executive or military department' means any agency listed under sections 101 and 102 of title 5, United States Code; and
3. the term 'Member of Congress' means a Senator, a Representative, a Delegate, or the Resident Commissioner from Puerto Rico.

(n) When the flag is used to cover a casket, it should be so placed that the union is at the head and over the left shoulder. The flag should not be lowered into the grave or allowed to touch the ground.

(o) When the flag is suspended across a corridor or lobby in a building with only one main entrance, it should be suspended vertically with the union of the flag to the observer's left upon entering. If the building has more than one main entrance, the flag should be suspended vertically near the center of the corridor or lobby with the union to the north, when entrances are to the east and west or the east when entrances are to the north and south. If there are entrances in more than two directions, the union should be to the east.

SEC 4 That no disrespect should be shown to the flag of the United States of America, the flag should not be dipped to any person or thing. Regimental colors, State flags, and organization or institution flags are to be dipped as a mark of honor.

(a) The flag should never be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property.

(b) The flag should never touch anything beneath it, such as the ground, the floor, water, or merchandise.

(c) The flag should never be carried flat or horizontally, but always aloft and free.

(d) The flag should never be used as wearing apparel, bedding, or drapery. It should never be festooned, drawn back, nor up, in folds, but always allowed to fall free. Bunting of blue, white,and red, always arranged with the blue above, the white in the middle, and the red below, should be used for covering a speaker's desk, draping the front of the platform, and for decoration in general.

(e) The flag should never be fastened, displayed, used, or stored in such a manner as to permit it to be easily torn, soiled, or damaged in any way.

(f) The flag should never be used as a covering for a ceiling.

(g) The flag should never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature.

(h) The flag should never be used as a receptacle for receiving, holding, carrying or delivering anything.

(i) The flag should never be used for advertising purposes in any manner whatsoever. It should not be embroidered on such articles as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard. Advertising signs should not be fastened to a staff or halyard from which the flag is flown.

(j) No part of the flag should ever be used as a costume or athletic uniform. However, a flag patch may be affixed to the uniform of military personnel, firemen, policemen, and members of patriotic organizations. The flag represents a living country and is itself considered a living thing. Therefore the lapel flag pin being a replica, should be worn on the left lapel near the heart.

(k) The flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning.

SEC 5 During the ceremony of hoisting or lowering the flag or when the flag is passing in a parade or in review, all persons present except those in uniform should face the flag and stand at attention with the right hand over the heart. Those present in uniform should render the military salute. When not in uniform, men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Aliens should stand at attention. The salute to the flag in a moving column should be rendered at the moment the flag passes.

SEC 6 During rendition of the national anthem when the flag is displayed, all present except those in uniform should stand at attention facing the flag with the right hand over the heart. Men not in uniform should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should render the military salute at the first note of the anthem and retain this position until the last note. When the flag is not displayed, those present should face toward the music and act in the same manner they would if the flag were displayed there.

SEC 7 The Pledge of Allegiance to the Flag:

"I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all,"

should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag and render the military salute.

SEC 8 Any rule or custom pertaining to the display of the flag of the United States of America, set forth herein, may be altered, modified, or repealed, or additional rules with respect thereto may be prescribed, by the Commander-in-Chief of the Armed Forces of the United States, whenever he deems it to be appropriate or desirable, and any such alteration or additional rule shall be set forth in a proclamation.

★ Religious Expression in Public Schools ★

Purpose

The purpose of this lesson is for students to gain an understanding that religious expression is a historical element in the founding of the United States. The tolerance of religious expression is known around the world as a key element in the founding freedoms and ideas of our nation.

Objective

1. The student will be able to discuss the importance and meaning of religious freedom as represented in the letter and guidelines provided by the United States Department of Education.
2. The student will evaluate the impact of the 1995 letter on Religious Expression in Public Schools and the legal guidelines provided by the United States Department of Education.

Theme-Unity

Religious freedom was one of the major forces that drew people to America in the colonial period. The principle of tolerance in religious expression exists in all areas of society including the public schools. The nation was unified in its beginning to allow religious expression in all areas of society consistent with the First Amendment.

NCSS Standards

Ie. demonstrate the value of cultural diversity, as well as cohesion, within and across groups.
IVf. analyze the role of perceptions, attitudes, values, and beliefs in the development of personal identity.
Ve. describe and examine belief systems basic to specific traditions and laws in contemporary and historical movements.
Vg. analyze the extent to which groups and institutions meet individual needs and promote the common good in contemporary and historical settings.
Xb. identify analyze, interpret, and evaluate sources and examples of citizens' rights and responsibilities.
Xh. evaluate the degree to which public policies and citizen behaviors rflect or foster the stated ideals of a democratic republican form of government.
Xj. participate in activities to strengthen the "common good," based upon careful evaluation of possible options for citizen action.

Time

2 class periods

Materials

- ★ Letter and legal guidelines from the United States Secretary of Education reading
- ★ Dictionaries
- ★ Poster paper, tape, and glue
- ★ KWL Charts

Preparation

- ★ Copy handouts
- ★ Find a location in the community where students can hang posters.

Focus

Students are to gain an understanding of the voluntary guidelines that regulate religious expression in public schools. The guidelines represent one method that government has used to communicate the impact of the First Amendment of the Constitution on the issue of religious expression in public schools.

Activity

Ask students to complete the "Know" and "Want to Know" sections on the KWL Chart in considering the issue of religious expression in public schools. Students should respond to the issues of: teaching about religion, official neutrality regarding religious activity, graduation prayer, student dress, and other issues where they have a knowledge base.

Students divide into pairs. Each pair takes one of the sections of the **letter from the Secretary** to read and explain to the other class members.

Students then take one of the sections of the **legal guidelines** to read and explain to the other class members.

Ask students to make a poster size drawing that represents the section guidelines they were assigned to learn.

The pairs can explain to the class their section of the religious expression guidelines, share their posters, and then hang their posters around the building or community.

Students complete the "Learned" section of the KWL chart, thinking about the new insights, issues, facts, etc. they have gained from readings, discussion, and poster project.

Closure

Students can enter into a discussion to create campus guidelines based on the Education Department's religious expression guidelines as they are evidenced or considered in the context of their school and classrooms. These guidelines could be written on a poster, signed by the students, and presented to a campus administrator in a formal forum in the class.

K-W-L Chart

What I Know	What I Want to Know	What I Learned

Religious Expression in Public Schools

Source: United States Department of Education website

UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

"...Schools do more than train children's minds. They also help to nurture their souls by reinforcing the values they learn at home and in their communities. I believe that one of the best ways we can help out schools to do this is by supporting students' rights to voluntarily practice their religious beliefs, including prayer in schools.... For more than 200 years, the First Amendment has protected our religious freedom and allowed many faiths to flourish in our homes, in our work place, and in our schools. Clearly understood and sensibly applied, it works."

President Clinton
May 30, 1998

Dear American Educator,

Almost three years ago, President Clinton directed me, as U.S. Secretary of Education, in consultation with the Attorney General, to provide every public school district in America with a statement of principles addressing the extent to which religious expression and activity are permitted in our public schools. In accordance with the President's directive, I sent every school superintendent in the country guidelines on *Religious Expression in Public Schools* in August of 1995.

The purpose of promulgating these presidential guidelines was to end much of the confusion regarding religious expression in our nation's public schools that had developed over more than thirty years since the U.S. Supreme Court decision in 1962 regarding state sponsored school prayer. I believe that these guidelines have helped school officials, teachers, students, and parents find a new common ground on the important issue of religious freedom consistent with constitutional requirements.

In July of 1996, for example, the Saint Louis School Board adopted a district wide policy using these guidelines. While the school district had previously allowed certain religious activities, it had never spelled them out before, resulting in a lawsuit over the right of a student to pray before lunch in the cafeteria. The creation of a clearly defined policy using the guidelines allowed the school board and the family of the student to arrive at a mutually satisfactory settlement.

In a case decided last year in a United States District Court in Alabama (Chandler v. James) involving student initiated prayer at school related events, the court instructed the DeKalb County School District to maintain for circulation in the library of each school a copy of the presidential guidelines.

The great advantage of the presidential guidelines, however, is that they allow school districts to avoid contentious disputes by developing a common understanding among students, teachers, parents, and the broader community that the First Amendment does in fact provide ample room for religious expression by students while at the same time maintaining freedom from government-sponsored religion.

The development and use of these presidential guidelines were not and are not isolated activities. Rather, these guidelines are part of an ongoing and growing effort by educators and America's religious community to find a new common ground. In April of 1995, for example, thirty-five religious groups issued "Religion in the Public Schools: A Joint Statement of Current Law" that the Department drew from in developing its own guidelines. Following the release of the presidential guidelines, the National PTA and the Freedom Forum jointly published in 1996 "A Parent's Guide to Religion in the Public Schools" which put the guidelines into an easily understandable question and answer format.

In the last two years, I have held three religious-education summits to inform faith communities and educators about the guidelines and to encourage continued dialogue and cooperation within constitutional limits. Many religious communities have contacted local schools and school systems to offer their assistance because of the clarity provided by the guidelines. The United Methodist Church has provided reading tutors to many schools, and Hadassah and the Women's League for Conservative Judaism have both been extremely active in providing local schools with support for summer reading programs.

The guidelines we are releasing today are the same as originally issued in 1995, except that changes have been made in the sections on religious excusals and student garb to reflect the Supreme Court decision in Boerne v. Flores declaring the Religious Freedom Restoration Act unconstitutional as applied to actions of state and local governments.

These guidelines continue to reflect two basic and equally important obligations imposed on public school officials by the First Amendment. First, schools may not forbid students acting on their own from expressing their personal religious views or beliefs solely because they are of a religious nature. Schools may not discriminate against private religious expression by students but must instead give students the same right to engage in religious activity and discussion as they have to engage in other comparable activity. Generally, this means that students may pray in a nondisruptive manner during the school day when they are not engaged in school activities and instruction, subject to the same rules of order that apply to other student speech.

At the same time, schools may not endorse religious activity or doctrine, nor may they coerce participation in religious activity. Among other things, of course, school administrators and teachers may not organize or encourage prayer exercises in the classroom. Teachers, coaches, and other school officials who act as advisors to student groups must remain mindful that they cannot engage in or lead the religious activities of students.

And the right of religious expression in school does not include the right to have a "captive audience" listen or to compel other students to participate. School officials should not permit student religious speech to turn into religious harassment aimed at a student or a small group of students. Students do not have the right to make repeated invitations to other students to participate in religious activity in the face of a request to stop.

The statement of principles set forth below derives from the First Amendment. Implementation of these principles, of course, will depend on specific factual contexts and will require careful consideration in particular cases.

In issuing these revised guidelines I encourage every school district to make sure that principals, teachers, students, and parents are familiar with their content. To that end I offer three suggestions:

First, school districts should use these guidelines to revise or develop their own district wide policy regarding religious expression. In developing such a policy, school officials can engage parents, teachers, the various faith communities, and the broader community in a positive dialogue to define a common ground that gives all parties the assurance that when questions do arise regarding religious expression the community is well prepared to apply these guidelines to specific cases. The Davis County School District in Farmington, Utah, is an example of a school district that has taken the affirmative step of developing such a policy.

At a time of increasing religious diversity in our country such a proactive step can help school districts create a framework of civility that reaffirms and strengthens the community consensus regarding religious liberty. School districts that do not make the effort to develop their own policy may find themselves unprepared for the intensity of the debate that can engage a community when positions harden around a live controversy involving religious expression in public schools.

Second, I encourage principals and administrators to take the additional step of making sure that teachers, so often on the front line of any dispute regarding religious expression, are fully informed about the guidelines. The Gwinnett County School system in Georgia, for example, begins every school year with workshops for teachers that include the distribution of these presidential guidelines. Our nation's schools of education can also do their part by ensuring that prospective teachers are knowledgeable about religious expression in the classroom.

Third, I encourage schools to actively take steps to inform parents and students about religious expression in school using these guidelines. The Carter County School District in Elizabethton, Tennessee, included the subject of religious expression in a character education program that it developed in the fall of 1997. This effort included sending home to every parent a copy of the "Parent's Guide to Religion in the Public Schools."

Help is available for those school districts that seek to develop policies on religious expression. I have enclosed a list of associations and groups that can provide information to school districts and parents who seek to learn more about religious expression in our nation's public schools.

In addition, citizens can turn to the U.S. Department of Education web site (http://www.ed.gov) for information about the guidelines and other activities of the Department that support the growing effort of educators and religious communities to support the education of our nation's children.

Finally, I encourage teachers and principals to see the First Amendment as something more than a piece of dry, old parchment locked away in the national attic gathering dust. It is a vital living

principle, a call to action, and a demand that each generation reaffirm its connection to the basic idea that is America--that we are a free people who protect our freedoms by respecting the freedom of others who differ from us.

Our history as a nation reflects the history of the Puritan, the Quaker, the Baptist, the Catholic, the Jew, and many others fleeing persecution to find religious freedom in America. The United States remains the most successful experiment in religious freedom that the world has ever known because the First Amendment uniquely balances freedom of private religious belief and expression with freedom from state-imposed religious expression.

Public schools can neither foster religion nor preclude it. Our public schools must treat religion with fairness and respect and vigorously protect religious expression as well as the freedom of conscience of all other students. In so doing our public schools reaffirm the First Amendment and enrich the lives of their students.

I encourage you to share this information widely and in the most appropriate manner with your school community. Please accept my sincere thanks for your continuing work on behalf of all of America's children.

Sincerely,
Richard W. Riley

UNITED STATES DEPARTMENT OF EDUCATION
LEGAL GUIDELINES ON
RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS

Student prayer and religious discussion: The Establishment Clause of the First Amendment does not prohibit purely private religious speech by students. Students therefore have the same right to engage in individual or group prayer and religious discussion during the school day as they do to engage in other comparable activity. For example, students may read their Bibles or other scriptures, say grace before meals, and pray before tests to the same extent that they may engage in comparable nondisruptive activities. Local school authorities possess substantial discretion to impose rules of order and other pedagogical restrictions on student activities, but they may not structure or administer such rules to discriminate against religious activity or speech.

Generally, students may pray in a nondisruptive manner when not engaged in school activities or instruction, and subject to the rules that normally pertain in the applicable setting. Specifically, students in informal settings, such as cafeterias and hallways, may pray and discuss their religious views with each other, subject to the same rules of order as apply to other student activities and speech. Students may also speak to, and attempt to persuade, their peers about religious topics just as they do with regard to political topics. School officials, however, should intercede to stop student speech that constitutes harassment aimed at a student or a group of students.

Students may also participate in before or after school events with religious content, such as "see you at the flag pole" gatherings, on the same terms as they may participate in other noncurriculum activities on school premises. School officials may neither discourage nor encourage participation in such an event.

The right to engage in voluntary prayer or religious discussion free from discrimination does not include the right to have a captive audience listen, or to compel other students to participate. Teachers and school administrators should ensure that no student is in any way coerced to participate in religious activity.

Graduation prayer and baccalaureates: Under current Supreme Court decisions, school officials may not mandate or organize prayer at graduation, nor organize religious baccalaureate ceremonies. If a school generally opens its facilities to private groups, it must make its facilities available on the same terms to organizers of privately sponsored religious baccalaureate services. A school may not extend preferential treatment to baccalaureate ceremonies and may in some instances be obliged to disclaim official endorsement of such ceremonies.

Official neutrality regarding religious activity: Teachers and school administrators, when acting in those capacities, are representatives of the state and are prohibited by the establishment clause from soliciting or encouraging religious activity, and from participating in such activity with students. Teachers and administrators also are prohibited from discouraging activity because of its religious content, and from soliciting or encouraging antireligious activity.

Teaching about religion: Public schools may not provide religious instruction, but they may teach about religion, including the Bible or other scripture: the history of religion, comparative religion, the Bible (or other scripture)-as-literature, and the role of religion in the history of the United States and other countries all are permissible public school subjects. Similarly, it is permissible to consider religious influences on art, music, literature, and social studies. Although public schools may teach about religious holidays, including their religious aspects, and may celebrate the secular aspects of holidays, schools may not observe holidays as religious events or promote such observance by students.

Student assignments: Students may express their beliefs about religion in the form of homework, artwork, and other written and oral assignments free of discrimination based on the religious content of their submissions. Such home and classroom work should be judged by ordinary academic standards of substance and relevance, and against other legitimate pedagogical concerns identified by the school.

Religious literature: Students have a right to distribute religious literature to their schoolmates on the same terms as they are permitted to distribute other literature that is unrelated to school curriculum or activities. Schools may impose the same reasonable time, place, and manner or other constitutional restrictions on distribution of religious literature as they do on nonschool literature generally, but they may not single out religious literature for special regulation.

Religious excusals: Subject to applicable State laws, schools enjoy substantial discretion to excuse individual students from lessons that are objectionable to the student or the students' parents on religious or other conscientious grounds. However, students generally do not have a Federal right to be excused from lessons that may be inconsistent with their religious beliefs or practices. School officials may neither encourage nor discourage students from availing themselves of an excusal option.

Released time: Subject to applicable State laws, schools have the discretion to dismiss students to off-premises religious instruction, provided that schools do not encourage or discourage participation or penalize those who do not attend. Schools may not allow religious instruction by outsiders on school premises during the school day.

Teaching values: Though schools must be neutral with respect to religion, they may play an active role with respect to teaching civic values and virtue, and the moral code that holds us together as a community. The fact that some of these values are held also by religions does not make it unlawful to teach them in school.

Student garb: Schools enjoy substantial discretion in adopting policies relating to student dress and school uniforms. Students generally have no Federal right to be exempted from religiously-neutral and generally applicable school dress rules based on their religious beliefs or practices; however, schools may not single out religious attire in general, or attire of a particular religion, for prohibition or regulation. Students may display religious messages on items of clothing to the same extent that they are permitted to display other comparable messages. Religious messages may not be singled out for suppression, but rather are subject to the same rules as generally apply to comparable messages.

★ What is An American? ★

Purpose

The purpose of this lesson is for students to develop an understanding of what it means **to be an American** and to stress the idea of individual responsibility. The idea of responsibility was a central concept of the Founding Fathers as they discussed the formation of the United States. Students will evaluate their role as students to uphold, protect, and demonstrate to the world the American idea of individual responsibility.

Objective

The student will define responsibility in terms of the acts of individuals and, collectively, of the people of a nation.

Theme-Responsibility

Americans are responsible for communicating a blueprint to future generations the ideas of how the country was formed, how it gained freedom, and how its citizens unite and progress toward a better life for ALL people.

NCSS Standards

Ib. explain how information and experiences may be interpreted by people from diverse cultural perspectives and frames of reference.
IVb. describe personal connections to place--as associated with community, nation, and world.
IVc. describe the ways family, gender, ethnicity, nationality, and institutional affiliations contribute to personal identity.
IVh. work independently and cooperatively to accomplish goals.
Xb. identify and intepret sources and examples of the rights and responsibilities of citizens.

Time

2 class periods

Materials

- ★ Rolls of butcher paper
- ★ Contemporary magazines, newspapers, and copies of historical documents (to be cut up)
- ★ Poster paper, tape, and glue

Preparation

- ★ Gather art supplies
- ★ Find a location in the community where students can hang their posters.

Focus

Students are to develop an understanding of what it means to be an American. Write the words freedom, unity, progress, and responsibility on the board. Ask students what they think each of the words mean as they develop illustrations of these concepts.

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Activity

Teachers may select one or more of these activities for their students:

1. Group the students into cooperative work groups. Each student, with the help of others in the group, uses butcher paper to draw a full-size outline of his or her body. Using magazines, articles, documents, illustrations, or their own drawing skills, students create or cut out concepts that represent themselves and paste them on the inside of their body outline. They then draw a line from each article to a space outside of the body outline and label articles as one of the four themes it represents: Freedom, Unity, Progress, or Responsibility. Students should also label characteristics of other articles that demonstrate their individuality. Students can title the poster "What is an American?" Display the posters around the school and area businesses.

2. The goal of this activity is for students to be able to see how they are interconnected with others and to show how, even as individuals, they possess characteristics similar to those of others. Ask students to place their posters in front of themselves on the ground and to sit in a large circle. Ask a student to hold a ball of yarn and, while taking a thread of the yarn, to then pass the ball to another student across the circle with an identical characteristic. That student in turn passes the yarn to yet another student. When all of the students with that characteristic are holding the string, select another characteristic and repeat the process. The activity will result in a web of people holding string and showing they are connected or unified in many different ways.

   Ask the students to state how a responsible person demonstrates one of the characteristics they have on their posters. For example, a driver is responsible for obeying the traffic laws.

3. Ask the students to write a poem titled or themed "What is an American?"
   Poem format:
   Line 1 One of the four themes
   Line 2 Two adjectives
   Line 3 Three action verbs
   Line 4 Write a sentence about the theme
   Line 5 A synonym for the theme

4. Students may work in groups to create collages titled "What is an American?" Remind students to include images and symbols that represent the diversity of individuals living together as the "American family" in one nation. Students will compare the American family of 281,000,000 citizens to their own families. Remind students that just as each of them is a vital member of their own families, so also is each citizen a vital member of the American family. Furthermore, just as individual family members can draw strength from one another, so can American citizens of one nation draw strength from all other citizens to enjoy and improve each of their lives. Students may present their collages to the class when they are finished.

Closure

Remind students that individuals are responsible for their own decisions but as citizens have a responsibility to respect the rights of other individuals.

What is an American?

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